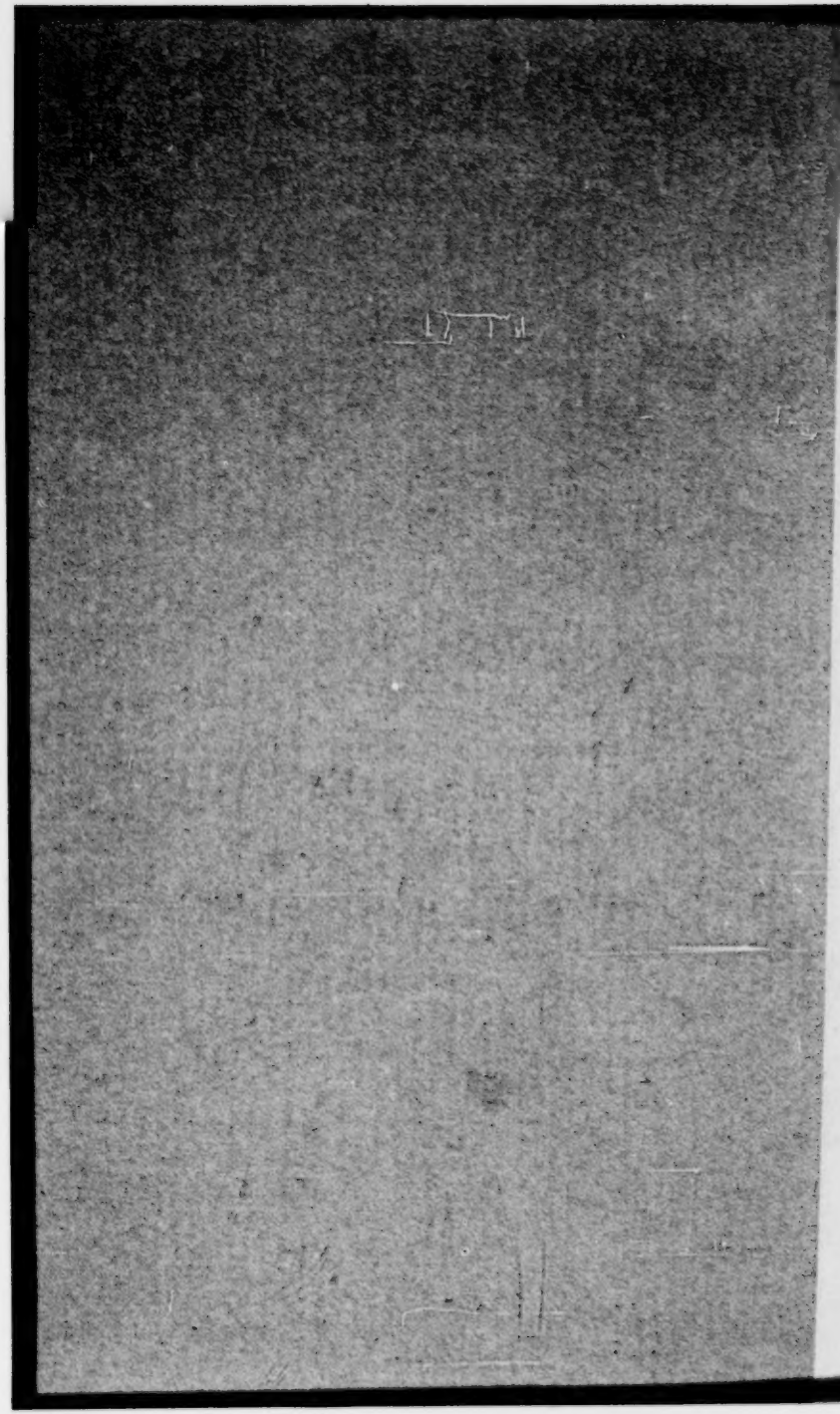

(Testimony of Vital Cyr.)

Q. Who did you go with?

A. I guess Levi was with me, I cannot tell just exactly if Levi was with me.

Q. Can't tell that? A. No, sir.

Q. How did you go up from Missoula to Bonner?

A. We had a rig.

Q. Can't you remember who went with you?

A. No.

Q. Can't remember that?

A. No, I think that was the fellow, he was working up there.

Q. Who?

A. Whoever that was, whoever that was, whoever was working up there, I can't tell just exactly, I think that was a fellow who was working up there, he was down in Missoula, so he came up with me.

Q. Do you know who he was?

A. I don't know, I forget his name.

Q. Did you know him at the time?

A. Yes, sir, I know him, but I can't think about his name now.

Q. You stated a moment or two ago you thought Levi was with you, what do you think now?

A. I know I had a fellow with me, but I can't tell just exactly.

Q. You dont' know whether it was your brother in law or not? A. No, I can't tell.

Q. Or whether it was this man that was working up there?

(Testimony of Vital Cyr.)

A. That is what I say, I know there was two, but I can't tell just who it was, whether it was my brother in law or a man working up there, I know there was two.

Q. What did you say you went up to Bonner for?

A. I went up to Bonner to ask that fellow if we had a show to cut them logs, and I could not get any show so I came home.

Q. Could not get any show so you came home?

A. Yes, sir.

Q. Went up in the morning and came back at night —from whom did you find out there that you had no show, who was it you saw?

A. Answer, I tell you, I could not get any show that way, because I could not see the man there, the manager.

Q. You could not see the manager?

A. I could not see him.

Q. Where was he?

A. I don't know where he was, I had been asking for him, and he says he wasn't there so I just came home.

Q. What was the manager's name?

A. I think that was Mr. Fenwick, I can't tell just exactly, but I think that was Mr. Fenwick at that time, I know Mr. Fenwick had been there for a long time, and I think he was manager at that time.

Q. You rode up to Bonner in the morning and inquired for the manager and the manager was not there and then you came back to Missoula?

A. Yes, sir, then I had been stay around town for a few days after that and I went to work.

(Testimony of Vital Cyr.)

Q. Then you went to work? A. Yes, sir.

Q. Well, if the manager that you went to see in regard to this logging was not there, how did you come to the conclusion you had no show?

A. Well, after that I went to work that is all about it; I just dropped it right there.

Q. You just dropped the whole matter, when the manager wasn't there you dropped the whole matter without doing anything more?

A. Yes, I think myself I would go to see him a little later; I think I would go to see him a little later, but then I did not see him after that.

Q. Did not see him after that? A. No, sir.

Q. So you bought this land for the purpose of logging on it, and then you gave the whole thing up because the manager was not home that day, is that it?

A. No, sir.

Q. What is it?

A. After we got filed, we sold them to Mr. Cobban after that.

Q. You sold them to Mr. Cobban after that?

A. Yes, sir.

Q. That was after you came back to Missoula?

A. No, after we had been filed.

Q. You say you sold this land to Mr. Cobban, Mr. Cyr? A. Yes, sir.

Q. Well, now, I am asking you did you sell this land before you went up to Bonner to inquire of the manager or afterwards? A. Afterwards.

(Testimony of Vital Cyr.)

Q. After you went up to Bonner to see the manager and the manager was not home? A. Yes, sir.

Q. How long after?

A. I can't tell just exactly, but that, I know that was not very long, a few days after that.

Q. A few days after that? A. Yes, sir.

Q. How many days would that be after you got back from Helena? A. I don't remember how long.

Q. Have you any idea?

A. I don't remember at all.

Q. You spent three or four days in Missoula before you went up to Bonner and three or four days after you got back from Bonner, is that it?

A. I think I went up the next day, if I remember, to Bonner, after I got back from here, and I can't tell just exactly if I sold it to Mr. Cobban the day after I went up to Bonner or the day after. I can't tell just exactly.

Q. Did you meet anybody when you were up at Bonner that knew you, that you know about?

A. I don't remember.

Q. You don't remember whether you met anybody up at Bonner that knew you or not?

A. No, I had been there about ten minutes.

Q. About ten minutes?

A. I had not been there very long.

Q. Did you say ten minutes?

A. Yes, I say ten minutes, but I don't know, I had not been there very long, I don't remember it.

(Testimony of Vital Cyr.)

Q. Do I understand you to say all the time you were at Bonner was ten minutes?

A. The time I was at Bonner, I don't remember how long I had been there, I say I had not been there very long, I don't know how many minutes, I did not look at the time.

Q. Where did you go to during the ten minutes or thereabouts you say you were in Bonner?

A. I just went in the store, and there was a man right in front of the store and I asked him if the manager was there and he says no.

Q. What store?

A. The company's store, and I just turned around and came back, I don't know how long I stayed there or not, I came on home, that is all.

Q. And drove back again?

A. Yes, I don't remember the name, I don't know the fellow, I just asked him that way.

Q. Then you went right back and sold the land to Cobban?

A. Yes, after, I can't tell just exactly, but I know I went right back, I don't know whether it was the same day or the day after, I don't remember.

Q. Who was with you when you went back from Bonner to Missoula, who drove with you?

A. That is what I don't remember who it was; I had been lots of times up to Bonner.

Q. On this particular time you don't remember whether you had anybody with you or not?

(Testimony of Vital Cyr.)

A. No, I don't remember, because sometime I meet a man around town and we take a rig and go up to Bonner, I cannot tell just exactly.

Q. Mr. Cyr, are you certain that you cannot remember who went up with you, or who came back with you, or how long it was before you deeded to Cobban, can you remember that you were ever at Bonner at all at this time and place, can you remember that?

A. I don't remember that day how long you say.

Q. Are you certain that you were there at all?

A. Well, yes, I was there, but I don't remember which day I went to Bonner, that is what I don't remember you see, which day, but I know I went there.

Q. Now, what did you say you bought this timber land for, what were you going to do with it?

A. What was I going to do with it?

Q. Yes.

A. Yes, I thought we would go to logging ourselves.

Q. For yourself?

A. Yes, sir, for the Blackfoot Company.

Q. That is what you took it up for?

A. To do that with then.

Q. That is what you filed for, you had that in mind when you filed? A. Yes, sir.

Q. You had it in mind six days afterwards when you proved up, had you? A. Yes, sir.

Q. Then, you went up to Bonner to see about it, to see the manager, and when you did not see him, you turned right around in a few minutes and went back home, and sold to Cobban?

(Testimony of Vital Cyr.)

Mr. WALSH.—We object to all this as leading, and a mere statement of counsel, the construction of the counsel put upon the statements of the witness, and as calling for no facts, and is manifestly unfair to the witness who does not understand English.

The EXAMINER.—Do you understand the question?

Q. Then you went up to Bonner to see about it, to see the manager, and when you did not see him, you turned right around in a few minutes and went back home and sold to Cobban. That is what you did, isn't it?

The EXAMINER.—Do you understand the question?

A. Yes.

A. After that we had been sold then to Mr. Cobban.

Q. Now, do you want me to understand, do you want to be understood yourself as swearing that you gave up the entire proposition of logging on this land because you did not happen to see the manager there that day?

A. Well, I thought we could not be bothered with him after that, that is what I told Levi, and he says that is well, let her go, and sell the timber to Mr. Cobban; he says all right and so we went to work and sold.

Q. How much money did Mr. Cobban pay you?

A. I don't remember how much he had been pay for the land.

Q. You don't remember that?

A. I can't remember just exactly.

Q. Did you receive any money from him?

(Testimony of Vital Cyr.)

A. He just—Levi Cyr, there was two of us, and Levi had been took the money and after that we just divided up between me and Levi.

Q. Levi got the money from Cobban?

A. Yes, sir.

Q. Then you divided it up? A. Yes, sir.

Q. How much did you get?

A. I can't tell just exactly how much I got for my share, I forget how much is it now, I can't tell just exactly how many we get, but I got for my share, I don't remember, but I know that we just divided up the money, because you see I was owing Levi some money and I just turned it back that way, I can't tell just exactly now how much I had left, I just gave a few dollars to Levi you see, and I can't tell just exactly how much I had left, I can't remember that.

Q. You say you were owing some money to Levi?

A. I was just owing him a few dollars.

Q. And you paid him back when you divided up?

A. Yes, sir, the time I had some money I gave to him back.

Q. How much did you clean up at the time?

A. I don't remember how much I had now.

Q. Can you tell anything about it, was it twenty or thirty or forty dollars, you must know something about it?

A. I think that was hundred and fifty dollars on my share.

Q. One hundred and fifty dollars for your share?

(Testimony of Vital Cyr.)

A. Yes, I cannot tell just exactly, but I know it was little over a hundred dollars.

Q. Do you say that your best recollection is that you got a hundred and fifty dollars for your share?

Mr. WALSH.—We object to that as leading.

A. Well, I can't tell, I can't remember.

Q. Was it about that amount?

Mr. WALSH.—We object to that as leading.

A. That was about the amount.

Q. How much did you pay Levi?

A. I don't remember if he got fifteen dollars or twenty dollars, I don't remember.

Q. You had borrowed that of him?

A. Before that?

Q. That was borrowed to come up here, wasn't it?

A. No, I was owing him that about a year before.

Q. Well, when you divided up, the money was paid by Cobban to Levi and Levi divided up with you?

A. Yes.

Q. You had some talk with Cobban yourself, hadn't you? A. Why we were all together.

Q. And where was that?

A. That day we had been sold.

Q. The day that you sold? A. Yes, sir.

Q. Do you remember what the talk was?

A. No, I don't remember, because I don't understand very much English, and so I don't remember just exactly, if that was in French I could tell you, Levi and

(Testimony of Vital Cyr.)

Mr. Cobban was talking together in English and I could just understand, you see, once in a while.

Q. Was Levi doing the business for you then?

A. Yes, sir.

Q. You don't know anything about how Mr. Cobban come to pay the money into the land office for you?

A. Well, I just found out after we had been started to come up here the last time.

Q. Did you find it out then?

A. Yes, sir, by Levi.

Q. What did you find out from Levi?

A. I had been told him I had no money to come and prove up on and Levi had been told me about it.

Q. What did he tell you about it?

A. He came down after me, he says Mr. Cobban—he will give a mortgage on his logging outfit to prove up with, so he says Mr. Cobban will accept the bargain, so we came up to prove.

Q. That is the way it was?

A. That is what he told me, he came up after me; I was working down to Huston, below Missoula.

Q. And you did not hear anything about the matter at all as to who you were to sell the land to? A. No.

Q. Never? A. I do not remember.

Q. Don't remember? A. I don't remember that.

Q. How old did you say you were, Mr. Cyr; you are thirty-four? A. Yes, I am going on thirty-four.

Q. Now, are you able to swear that you were to sell

(Testimony of Vital Cyr.)

that land, did sell it to Mr. Cobban, and didn't know anything about it at all before the day you did sell it to him?

Mr. WALSH.—We object to that as leading.

(Question withdrawn.)

Q. Didn't know anything about the fact you were going to sell to Cobban before the day you did sell to him?

Mr. WALSH.—We object to that as leading.

A. Before the day I sold?

Q. Yes?

A. I might, but I don't remember that.

Q. You might, but you don't remember it?

A. No, I might of, but I don't remember.

Q. Well, when you got your hundred dollars and the fifty dollars that would cover you two expenses up here to Helena—you said it was about twenty-five dollars at a time, that is what you expected to get, wasn't it?

Mr. WALSH.—We object to that as leading.

A. Expected to get twenty-five dollars?

Q. That is what you expected to get, one hundred dollars and your expenses?

Mr. WALSH.—We object to that as leading.

A. I do not understand what you mean—get one hundred dollars and expenses?

Q. That is what you expected to get, one hundred dollars and your expenses?

Mr. WALSH.—We object to that as leading.

A. Yes, that is what I say.

Q. Who told you were going to get that much?

(Testimony of Vital Cyr.)

Mr. WALSH.—We object to that as leading.

A. Who told me?

Q. Yes?

A. Well, the way it is, I was working down there and Levi Cyr told me coming down to get me, down there; I was working at Huston for Mr. Hanratty; he told me we might make a few hundred dollars by that; that is what he told me that way; I had been told him if we can get contract to logging we might log him this winter, and if we cannot we will sell him; I say I am not going to monkey around with that very long; if I cannot do anything one way we will do it the other way.

Q. Tell me why you gave up your idea of logging before you found out whether you could do anything or not; the manager was not there?

A. I know, but just after I went back I see I could not; I met Levi Cyr round town; I had been to see Levi there; I had been told him right away we might as well sell them; sell and go to work; that is the way I told him; I just gave up the thing right there to log.

Q. How much was the value of the timber on this land?

A. I can't tell just exactly.

Q. Well, you were there one day? A. Yes, sir.

Q. Couldn't you tell anything about it?

A. Well, we had about one claim; that claim, I say, I just put on about eleven hundred thousand, and the other claim he was not quite that much.

Q. Did you know at the time about how much the timber was worth? A. At the time?

(Testimony of Vital Cyr.)

Q. Yes, you say you were up there one time?

A. I can't remember how much the timber was worth.

Q. And all you know about what the value of the timber was, what you could estimate from the two or three hours you were up there on that day, wasn't it?

Mr. WALSH.—He has not said he was up there two or three hours; he said he was up there all day.

Mr. MAYNARD.—He was around there on this land with his brother in law.

Mr. WALSH.—He has not even suggested he was there only two or three hours, or mentioned anything of the kind.

Q. Did you know, or didn't you know, what the value of the timber was?

A. Just how much he had on this land?

Q. You had on this land?

A. How much timber we had on this land?

Q. Who had on this land?

A. How much timber there was on the claim?

Q. Yes, sir, was there five hundred dollars' worth?

A. Was there five hundred dollars' worth?

Q. Of timber on your claim?

A. Yes, we had.

Q. How much more?

A. I can't have how much, but he had about five hundred dollars; I cannot tell how much more.

Q. You think there was about five hundred dollars, do you?

(Testimony of Vital Cyr.)

A. Yes, something like that, something like five hundred, or a little over.

Q. How much over? A. About fifty, I guess.

Q. That would be about five hundred and fifty?

A. I can't remember how much timber was worth that year, I don't remember that.

Q. Well, you swore when that question was put to you before the Examiner that there was about a thousand dollars' worth; how did you come to do that?

A. About a thousand worth?

Q. Yes?

A. Well, that is what I say I don't remember; I don't remember that how much he had.

Q. Do you know Mr. George Hammond?

A. Yes, sir.

Q. Who is he, where does he live?

A. In Missoula now.

Q. Where did he formerly live?

A. His family live in Missoula now, too.

Q. Was George Hammond a witness for you?

A. I guess he was, I can't remember just exactly.

Q. Can you tell how he happened to be as he was?

A. He was know all the country; if he had been witness I know he had been stayed on the Blackfoot for a long time; I think I remember now Levi had been told me George Hammond went all through that claim, that is what George had been told him.

Q. Can you name the other witnesses?

(Testimony of Vital Cyr.)

A. I cannot name the other witnesses besides Mr. Seeley; then I had Levi Cyr.

Q. Can't think of any more?

A. No, I can't name the others.

Q. Did you ever name him?

A. I don't remember.

Q. Well, now you are certain, are you, that you stayed around Missoula two or three days before you went up to Bonner, before you sold to Cobban?

A. I don't remember at all how much, how many days I had been around town, I cannot say.

Q. Isn't it a matter of fact, Mr. Cyr, that almost as soon as you come—that you left Helena and went right back to Missoula and deeded to Mr. Cobban, isn't that true?

Mr. WALSH.—We object to that as leading, and further, that the records show just exactly the time that elapsed.

A. I cannot say just exactly the time.

Q. I ask you again, refresh your recollection as best you can in every way, isn't it true that when you came here to Helena to prove up and Mr. Cobban paid this money in to the land office for you, that you went back to Missoula and almost at once, within a day or two afterwards, that you sold the same land to Mr. Cobban and got your one hundred and fifty dollars?

Mr. WALSH.—We object to that as leading and as a repetition, and because the facts as disclosed by the record evidence show the exact time elapsed as disclosed by

(Testimony of Vital Cyr.)

the date of the deed and the date of the final proof, and further, because the witness has already answered by saying he does not know just exactly what time elapsed, it was a short time afterwards.

A. It was a short time after that; I don't remember at all.

Q. Now, then you can't say whether you stayed around three or four days or two or three days in Missoula, before you went to Bonner or not?

Mr. WALSH.—He has already testified that he did not remember how long it was, it may have been two or three days, but his impression is that it was the next day after he got back from Helena, therefore this is simply a mere repetition.

Q. Answer the question. I want to know, when you told me it was two or three days, perhaps three or four days after you returned from Helena to Missoula before you went to Bonner, were you mistaken then or not?

A. I don't remember; that is the way I told you, I say I don't remember, probably, I went up the next day, I don't remember that.

Q. But you are sure you did go to Bonner?

A. I don't remember that.

Q. Do you swear you did go to Bonner at all?

A. I went to Bonner at that time, I don't know whether it was two or three days after that; I cannot tell just exactly; I know I went up to Bonner; I cannot tell just exactly whether it was right away after I came back; I don't remember that at all that I know of.

(Testimony of Vital Cyr.)

Thereupon further hearing was continued until Thursday, March 20th, 1902, at ten o'clock A. M.

Thursday Morning, 10 A. M., March 20th, 1902.

Hearing resumed pursuant to adjournment.

VITAL CYR, a witness on behalf of complainant, resumed the stand for further examination.

Direct Examination.

(By Mr. MAYNARD.)

I have no further questions to ask this witness save the fact that I desire to read into the record that Vital Cyr, the witness upon the stand—gave his testimony, which is a part of the original files in the United States land office, gave his testimony on his final hearing on the 18th day of December, 1899. Reading in like manner from the receiver's receipt: "Received from Vital Cyr $381.23 in payment of lots one and two and the east half of the northwest quarter of section number eighteen, in township number 16 north, of range number 14 west, Montana meridian, containing 152 acres and forty-nine hundredths at $2.50 per acre. "This receiver's receipt was issued on the 18th day of December, 1899."

And reading from the certified copy of deed of Vital Cyr, which is in evidence in this case, it appears, and I read as follows:

"This entry made the 22d day of December, in the year of our Lord one thousand eight hundred and ninety-nine between Vital Cyr, an unmarried man, party of the first part and R. M. Cobban of Missoula, Montana, party of

(Testimony of Vital Cyr.)

the second part, witnesseth. That the said party of the first part for and in consideration of the sum of seven hundred dollars, lawful money of the United States to him in hand paid by the said party of the second part, does convey the real estate situate in Deer Lodge County, State of Montana, namely, the northwest quarter of section eighteen, in township sixteen north, range fourteen west, Montana meridian "which deed was acknowledged before Wallace P. Smith on the same date, namely, the 22d day of December, 1899."

By Mr. WALSH.—We move to strike out the statement of counsel as not being the testimony of any witness.

Cross-examination.

(By Mr. WALSH.)

Q. Mr. Cyr, where were you born?

A. I was born in the State of Maine.

Q. In what town were you born?

A. Well, I—there was no town there where I had been raised.

Q. You lived in the country? A. Yes, sir.

Q. Now, in what county were you born?

A. Aroostook County, Maine.

Q. How long have you lived in Montana?

A. I came up in here in the spring of 1887.

Q. What relatives, if any, have you in Montana? What other members of your family live here?

A. I have two sisters with me?

Q. Two sisters with you? A. Yes, sir.

(Testimony of Vital Cyr.)

Q. Your father and mother live with you here anywhere?

A. No; my father got here last year and took sick, and he died last year and my mother she went home.

Q. Did she make a home here for yourself and your sisters?

A. Well, I got a home with her; my sister got married and I just stayed with her.

Q. With them?

A. Yes, if I don't work or labor.

Q. Now, what kind of work do you usually do?

A. I work around in the woods.

Q. In the woods?

A. Yes, sir, around the lumber camp and a sawmill, driving team and working with a cant hook.

Q. And your brother in law Levi was engaged in working in the woods, too, was he not, logging?

A. Well, he been logging. I don't know what date that was, but I know he been logging when we went up on Rock Creek there.

Q. He had a logging outfit, did he not?

A. Yes, sir.

Q. Did you ever work with him or for him?

A. I been working for him that winter.

Q. Do you remember when that was?

A. I cannot remember now. I know that was in the winter and I was logging with a team.

Q. What was he doing, did he have a contract?

A. Yes, sir.

(Testimony of Vital Cyr.)

Q. What kind of a contract?

A. He had a logging contract.

Q. He had a contract to cut down trees and put the logs in the river?

A. Yes, sir, just put them on the bank; that was for Mr. Levi Johnson.

Q. Mr. Johnson was running a saw mill, was he?

A. Yes, sir.

Q. Well, now, you had before you took up this timber claim of yours, as I understand you, Mr. Cyr, you heard a good many people talking about taking up timber claims?

A. Yes, sir. I heard quite a few talk about it.

Q. And you understood you had a right to take one too? A. Yes, sir.

Q. But if I understand you, it was Levi that came and asked you to go up with him and asked you to take up a timber claim, and stated that you could probably make a couple of hundred dollars.

A. Yes, we had been talking about that between the two of us.

Q. Your talk was that you would each go up and take up a timber claim, and then you would try to get a contract to cut down the logs on it and put them on the bank of the river for somebody? A. Yes, sir.

Q. Now, you don't talk English very well, do you?

A. No, I cannot hardly explain everything. I cannot talk very well.

Q. You understand pretty well, though, I guess.

(Testimony of Vital Cyr.)

A. Oh, I can understand pretty good.

Q. But you don't talk very well, do you?

A. No, sir, I do not.

Q. Your people are French, are they not, Mr. Cyr?

A. Yes, sir.

Q. And you talk French, do you?

A. Yes, sir.

Q. Are you able to read English? A. No, sir.

Q. Do you read French?

A. I can read a little bit in a book; that is a little French, that is all; I have got no education at all.

Q. Do you write? A. No, sir.

Q. You don't write at all, you say?

A. No, sir, I cannot write my own name.

Q. Do you talk French a little—you read French a little?

A. I can talk and read French a little, but I cannot read writing.

Q. You don't read writing, you say?

A. No, sir.

Q. Who was it that did most of this business for you, about taking up this claim?

A. Well, it was Levi B. Cyr, because he could read and write in English and he was doing it.

Q. Did the business for you?

A. Did the business for me. He would explain it to me in French.

Q. At that time he was married to your sister, was he? Yes, sir.

(Testimony of Vital Cyr.)

Q. Did you live at his house at any time?

A. No, that time I cannot—

Q. Well, I say, did you live at his house at any time?

A. Well, I went there, but I have been—I didn't stay around where he was.

Q. But, you were at his house frequently, were you?

A. I was visiting, yes, sir.

Q. And worked with him one winter?

A. Yes, sir.

Q. Well, now, when you went to take up this claim, Mr. Cyr, why, you knew it would take some money to buy the land, did you not? A. Yes, sir.

Q. In the first place, where did you expect you would get the money to pay for the land, when you went to take it up?

A. Well, he told me—I don't know—he said he will have some money from Mr. Cobban.

Q. Levi told you so, did he?

A. Yes, sir, that is what he told me. I didn't know if he had been talking about it before, with Mr. Cobban, or not.

Q. At any rate, Levi told you he would borrow the money from Mr. Cobban to pay up?

A. Yes, sir. That is what he told me.

Q. Now, what, if anything, did he say about any arrangement that he had with Mr. Cobban?

A. Well, he didn't say anything about it.

Q. Did he say anything about any security that he was going to give to Mr. Cobban for the money?

(Testimony of Vital Cyr.)

A. No, I don't remember if he told me.

Q. But, anyway, you were relying upon Levi to get the money?

A. Yes, sir, if he did not, why, I couldn't take up no claim.

Q. Well, how did you expect to pay him back?

A. Well, after we got the logs, that was our calculation to make some money and pay him back again.

Q. You would pay him back out of the money that you made out of the logging on the place?

A. Yes, sir, between him and Levi, my brother in law.

Q. Now, Mr. Maynard asked me something about where you were going to get the money, and you started to say something about Levi having a logging outfit; what were you going to say about that?

A. Well, he told me that was, he says, I might—he says I might give you that logging outfit for security for the money. That is what he told me. I don't know whether he had been making arrangements with him or not. I cannot say about that.

Q. But he told you that he could give Cobban his logging outfit as security for the money that it would be necessary to have to prove up on it, did he?

A. Yes, sir.

Q. Now, you are pretty sure, Mr. Cyr, are you, that Mr. Cobban didn't ask you to go out and take up this land? A. For me, no, sir.

Q. He didn't do that?

(Testimony of Vital Cyr.)

A. No, sir, he did not.

Q. Well, wasn't there somebody else that hired you to go out and take up this land?

A. No, sir, I don't remember it.

Q. Well, you would remember it if it had occurred, would you not? You talked it up just as you said, did you not?

A. Yes, sir. Well, I went up there with Levi, and took up the claim; that is all.

Q. Well, you didn't have any arrangement with anybody that you were to take up a claim for him, did you?

A. No, sir, not that I know.

Q. Now, at the time you filed on the land, you came down here the first time, it seems, it seems that you swear that you hadn't made any agreement or contract with any person, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except yourself.

A. Yes, sir.

Q. That means that you swore that you were taking the land for yourself, and not for somebody else, was that true?

A. Well, I didn't take—that is for myself.

Q. You took the land for yourself, and not for anybody else? A. Yes, sir.

Q. So that was true when you said that before the land office, was it not? A. Why, sure.

Q. Now, when you came down again to make your

(Testimony of Vital Cyr.)

final proof, you were asked this question "Have you sold or transferred your claim to this land since making your sworn statement, or have you directly or indirectly made any agreement or contract in any way or manner, with any person whomsoever, by which the title which you may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except yourself"? to which you answered: "No, sir," I have not." A. Yes, sir.

Q. Now, was that true? A. Yes, sir.

Q. Then you were asked: "Have you directly or indirectly agreed to take up this land for the benefit of anybody except yourself"? And you replied that you had not; was that true?

A. Yes, sir, that was true.

Q. And then you were asked this question: "Do you make this entry in good faith for the appropriation of the land exclusively to your own use, and not for the use or benefit of any other person"? And you answered, "No, sir, I do not." Was that correct?

A. That was correct.

Q. Was that true?

A. Yes, sir, that was true.

Q. Then you were asked: "Has any other person than yourself, or has any firm, corporation, or association, any interest in the entry you are now making, or in the land, or in the timber thereon"? To which you answered: "No, sir." Was that true?

(Testimony of Vital Cyr.)

A. Yes, sir.

Q. Now, before you made the final proof on this land and paid for it here, had you made any agreement with anybody that you would sell the land to him?

A. No, sir.

Q. Had you made any promise to anybody that you would convey the land after you had made final proof on it, to him?

A. Not that I remember of.

Q. Did you have any talk with anybody before you made the final proof on this land, about selling it?

A. I don't remember.

Q. Well, I wish you would think now. If you did, I wish you would tell me, and if not, I wish you would tell me that. Before you made final proof on the land, did you ever have any talk with anybody, about selling the land to him? A. No, sir.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Since you have—since you left the stand last night, you have been with Mr. Cobban, haven't you?

A. Well, I went up with Mr. Cobban, yes, sir.

Q. How long were you with him?

A. I have been with Mr. Cobban about—I cannot tell just exactly, but I went up—we went up town here a little ways.

Q. Did he take you to Mr. Walsh's office? Did he take you to that lawyer's office? (Meaning Mr. Walsh.)

(Testimony of Vital Cyr.)

A. No, sir.

Q. He did not? A. No, sir.

Q. You have seen him and talked with him, have you not? A. No, sir.

Q. You never have? A. No, sir.

Q. Are you sure?

A. Pretty near sure. The time I was talking to him, with Mr. Cobban, of course, I didn't. He went downstairs and we started together, and where the lawyer went, I don't know.

Q. And you have never had any talk with him?

A. No, sir.

Q. Do you know whether you was arrested for perjury or not in this case?

A. I don't understand.

Q. Do you know whether you were arrested or not for lying in this case, and brought here to Helena?

A. Lying?

Q. Well, for lying under oath; yes, sir, what they call perjury. Do you know whether you were arrested or not? A. I don't understand.

Q. Don't you know what it is to be arrested?

A. Yes, I know.

Q. Were you—were you arrested?

A. I was arrested.

Q. Were you?

By Mr. WALSH.—Ask him if he was ever brought here before the Court.

(Testimony of Vital Cyr.)

Q. Were you ever brought here before the Court?

A. I came up in here yesterday.

Q. Well, before that I mean.

A. No, sir.

Q. Never was before? A. No, sir.

Q. You don't know whether the grand jury had returned an indictment against you for perjury, or not?

A. I don't know, no, sir.

Q. You don't know?

A. No, sir. I cannot understand you, but if it was in French I could tell you. I don't understand good English. You see, if it was in French I could tell you what you mean.

Recross-examination.

(By Mr. WALSH.)

Q. Mr. Cyr, when you were called here to the stand yesterday morning, you had a little talk with me in the courtroom here, about five minutes, didn't you?

A. It was you, was it?

Q. I talked with you about five minutes before you went on the stand here yesterday, did I not?

A. Let us see, I don't remember. Yes, I think I did.

Q. Right here in the courtroom, didn't you?

A. Yes, sir.

Q. Sat on two chairs over there.

A. Yes, sir, I know this gentleman came up to me and asked me if I was Dr. Parsons.

Q. And you denied that, did you? A. Yes, sir.

(Testimony of William G. Glenny.)

Subscribed and sworn to before me this twenty-first day of March, 1902. I do hereby certify that I have read and corrected the foregoing testimony of the witness, Vital Cyr, and the same has been correctly transcribed.

HENRY N. BLAKE,
Examiner in Chancery.

WILLIAM G. GLENNY, a witness called by the complainant, being first duly sworn by the Examiner testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Where do you live, Mr. Glenny?

A. At Missoula, Montana.

Q. What official position do you hold?

A. Court reporter of the Fourth Judicial District.

Q. How long have you held that position?

A. Since the seventh or sixth of January, 1901.

Q. Were you living in Missoula in the spring of 1899?

A. Yes, sir.

Q. How long have you lived there?

A. I have lived there since 1894.

Q. Do you remember the occasion of doing some work for Mr. Inspector Zevely of the Interior Department of the United States? A. Yes, sir.

Q. When was that?

A. Well, sir, I could not tell you exactly, but it was sometime in the early spring, I think, of 1891. My im-

(Testimony of William G. Glenny.)

pression is it was the month of February, the last of the month of February, I think.

Q. What was that work?

A. It was the work of a stenographer taking depositions of some several witnesses at a preliminary hearing before Inspector Zevely.

Q. Do you remember how many witnesses gave testimony which you took down in shorthand?

A. Five or six; I think five.

Q. What was the subject about which they testified?

A. Well, it was simply, you might say, prying into the supposed irregularities that it was claimed existed with reference to timber.

Q. Can you recall the names of the witnesses that appeared before Mr. Inspector Zevely, whose testimony you took down in shorthand?

A. Mr. Murtaugh was the first witness. Then Allen Dodd, I think, was the next, his brother the third.

Q. What was his name? Harrison Dodd?

A. I don't know what his name was. Harrison Dodd, I think. Then a man by the name of Bryant.

Q. Bryan, you mean. A. Bryan, yes.

Q. Was it Thomas Bryan?

A. Yes, sir, Thomas Bryan.

Q. And I think following Mr. Bryan, was Mr. Griswold? A. Mr. Griswold, yes, sir.

Q. Allow me to call your attention to the fact as to whether or not Albert Jemison was there?

A. Yes, sir, I believe Albert Jemison did testify.

(Testimony of William G. Glenny.)

Q. Now, then, I wish you would state, Mr. Glenny, as to whether or not any of these witnesses who gave their testimony in your presence, which you recorded in shorthand, were at that time and place, so far as you know, under the influence of liquor?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial and incompetent for the reason that what these witnesses said, or what they did, before Mr. Zevely is immaterial upon this inquiry, and further, upon the ground that the question is leading.

By the WITNESS.—Shall I answer?

By the EXAMINER.—You can answer the question, yes, sir.

A. Well, I cannot say that they were, nor that they were not drinking; but my impression from the simple fact of taking the testimony at some distance from them, would lead me to think that everything was perfectly regular. I had no such impression at the time that there was anybody drinking or drunk. Of course, they may have been drinking or they may not. I don't know. Mr. Zeveley had me come to his room and I remained in his room all the time. The witnesses were going and coming and their testimony was apparently rational, not what a drunken man would give, I wouldn't think; but as to whether they had been drinking, I couldn't say.

Q. Calling your attention specifically to the witness, Allen Dodd, you may state as to whether or not, when he was in your presence, and while he was being inter-

(Testimony of William G. Glenny.)

rogated by Mr. Zeveley, and you took down his testimony, whether you saw any indications whatever, of his being out of his mind, or beside himself with drink, or under the influence of liquor?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial and incompetent, for the reason that it makes no difference what the witnesses said or did before Mr. Zeveley, upon this inquiry, and further the question is leading.

A. No, sir, I did not in the capacity in which I was employed. I found nothing irregular, but if you will allow me to say, that, of course, I being employed as a stenographer, my attention was on my work, and, of course, I couldn't see whether he was—had been drinking or not; but his answers seemed to be of an intelligent nature.

Q. Well, did you see anything in his actions or conduct, or in his words, or in his manner of speaking, or in answering the questions, that indicated to you that he was under the influence of liquor?

By Mr. WALSH.—We object to that as being irrelevant, immaterial and incompetent, for the reason that what these witnesses, or any of them, said, or what they did upon that occasion before Mr. Zeveley is immaterial upon this inquiry; and upon the further ground that the question is leading.

A. No, sir.

(Testimony of William G. Glenny.)

Cross-examination.

(By Mr. BICKFORD.)

Q. How far away from these witnesses were you when you were taking your notes, Mr. Glenny?

A. Well, possibly the distance from the witness-chair that Mr. Maynard is now; perhaps fifteen feet away or something like that; quite a little distance.

Q. Did you look at the countenance of the persons who were witnesses, and were being questioned, to ascertain whether they were drunk or sober?

A. Only as a stenographer would do, and while looking up.

Q. Your attention, then, was absorbed in your notes, then, rather than with the appearance of the witnesses?

A. Yes, sir, except with the impression one would receive, of course, while so engaged.

Q. Well, are you prepared to say, on your oath, whether these men were drunk or sober when they were giving the testimony?

A. No, sir, I am not. I can only state as to what I —the impression I had of the transaction, and their testimony at the time.

Q. Now, as a matter of fact, you took down these questions and these answers as quick as the questions were propounded by counsel, and the answers as given by the witness, verbatim, did you not?

A. I tried to do so.

Q. And in transcribing the testimony, did you transcribe it as your notes would indicate?

(Testimony of William G. Glenny.)

A. I tried to do so, yes, sir.

Q. I will ask you to state whether any suggestions were made by Mr. Zeveley with reference to the manner of transcribing your notes?

A. None whatever. I was just simply to—

Q. Who was in the room at the time when these notes were being taken?

A. Mr. Inspector Zeveley and Mr. Griswold were there most of the time, and there were several witnesses who testified, and I don't know but what possibly there was perhaps two or three of them in the room when some one of them testified.

Q. Was this at the time a suit had been commenced and was pending in the District Court by Griswold against R. M. Cobban, or about the time?

A. It was about the time, but I think possibly that suit was commenced later; but I am not sure, though.

Q. Now, I will ask you to state whether or no, Mr. Griswold was taking an active part in these proceedings in taking the testimony?

A. Well, I don't know that I can say as to that. He—of course, Inspector Zeveley, being the inspector asked him where he could find these men, and I think asked him to bring them up, which he did.

Q. Wasn't he, as a matter of fact, in frequent consultation with Mr. Zeveley during the taking of this testimony?

A. Well, as to the frequency of the thing, I don't

(Testimony of William G. Glenny.)

know. He was, of course, talking with him once in a while.

Q. And aided him when the testimony was being taken? Was he talking with him?

A. I think on one or two occasions possible, he interrupted the witness. I know of one instance where he interrupted the witness, and told him he wanted him to tell the truth.

Q. And told him what the truth was that he wanted him to tell, didn't he?

A. As to that, I do not know.

Q. Well, as a matter of fact, did it not appear that in the taking of this testimony, and in making the examination of the witnesses, that Griswold had as much to do with it as Mr. Zeveley?

A. No, I wouldn't think so.

Q. But he was there constantly?

A. He was there, yes, sir.

Q. And was he in consultation with the witnesses, and talking with them?

A. Not in the room any more than as I say he spoke up and interrupted one of the witnesses that I know of. As to the witness, I don't know who it was. It was one of the witnesses—and he told him that he wanted him to tell the truth. I remember that.

Q. Now, I will ask you to state whether you know of your own knowledge of Mr. Griswold being present, and being the person who brought all of these witnesses to Missoula from their homes in the Blackfoot?

(Testimony of William G. Glenny.)

A. I couldn't say as to that, but he brought them up —brought the witnesses to Mr. Zeveley, that Mr. Zeveley was using in taking the testimony and conducting the examination.

Q. Do you know whether the taking of the testimony at that time, had any relation or bearing upon the civil case which was brought afterwards by Mr. Griswold against Cobban?

A. Well, in so far—in so far only as possibly the indebtedness that he claimed was due him.

Q. Then you afterwards took the testimony in a case—in the case of Mr. Griswold against Cobban, did you not? A. Yes, sir.

Q. As stenographer, did you? A. Yes, sir.

Q. And transcribed that testimony?

A. Yes, sir, transcribed that up until the case was dismissed.

Q. And you have been somewhat familiar with this transaction from the time in February, 1900, up?

A. In so far as my official position brought me in contact with it, yes.

Q. Now, Mr. Glenny, I want to ask you whether or no, you took this down in shorthand and afterwards transcribed it, or whether you took the testimony directly on the typewriting machine at the time when the witnesses gave their testimony?

A. I took the testimony in shorthand and afterwards transcribed it on the machine.

Q. Where was your machine, in the room?

(Testimony of William G. Glenny.)

A. Are you referring to this examination of Inspector Zeveley?

Q. Yes, sir.

A. My machine was in Mr. Zeveley's room.

Q. Well, did he have more than one room?

A. No, sir.

Q. Just one room? In what hotel was it?

A. In the Missoula Hotel.

Q. And this machine was in the same room in which the witnesses gave their testimony? A. Yes, sir.

Q. Were the witnesses there when you transcribed the testimony?

A. I transcribed it on Sunday, if I remember correctly, and I have no recollection of any of the witnesses being there that say, at least, while I was transcribing it. If they were it was later on, but I don't remember about that.

Q. Well, now, as I understand you, then, the testimony was taken down in shorthand—

A. I would like to say in addition to that, as I remember now, I had transcribed some of that testimony that evening. I worked until about midnight that night. It wasn't—hadn't finished it completely and I finished it up on Sunday.

Q. Well, then, as I understand you, this testimony was taken down in shorthand notes, and between the time when the testimony was taken down in shorthand notes, and the time when it was transcribed, for the signature of the witnesses, there must have elapsed some considerable length of time?

(Testimony of William G. Glenny.)

A. The time it would take me to transcribe my notes, and possibly to get the witnesses there to read them over and sign it.

Q. Now, did the witnesses remain in the room during the time of your transcribing the testimony?

A. Well, Mr. Bickford, I don't remember that, but I don't think they did. They may have been coming and going, but I don't think so, because I transcribed it in the evening, and I don't think they came up there that evening.

Q. Well, now, I will ask you to state whether or no they were present when this testimony was transcribed, and stayed there all the time while it was being written out, and was signed by them?

A. No, not that same day as I remember it. My impression is that the first work I did was on Saturday—the day of the month I cannot state, and if my impression of that is correct, they did not.

Q. Then you did not, as a matter of fact, write it out on the machine as fast as it was given by the witness?

A. No, I didn't take the testimony directly on the typewriter.

Q. Into whose custody did you give the testimony after you had transcribed it?

A. Inspector Zeveley's custody.

Q. How long a time elapsed between the time of giving the testimony into the hands of Inspector Zeveley and the time when the witnesses signed and swore to the testimony?

A. Well, I cannot say, Mr. Bickford.

(Testimony of William G. Glenny.)

Q. Were you present at the time when they did sign the testimony?

A. I was present when—well, I won't say all of the, but I know I was present when some of them signed it.

Q. Which ones?

A. I couldn't state that. I don't know.

Q. Do you know—did you read, or heard read over the testimony to the witnesses before they signed their names to it?

A. Yes, sir, the testimony was read to them.

Q. Which witness did you hear read the testimony?

A. Well, it seems to me that Murtaugh and the Dodds signed their testimony as also Bryan.

Q. When was it that they signed their testimony? On Saturday, Sunday or Monday?

A. My impression is that some of them signed that Saturday evening, about ten o'clock.

Q. Which one or two would you say?

A. I couldn't state that, Mr. Bickford. I don't—I do so much of that kind of work that I am somewhat clouded regarding it.

Q. Yes, you don't know in whose custody this testimony was between the time of its being transcribed, and the time when it was signed by the witness?

A. Well, I know it didn't leave the room because I was in the room all the time. That is, it didn't leave the room while I was there. Of course, I went out a moment and returned—I went home that night and returned the next morning early.

(Testimony of William G. Glenny.)

Q. And you found the testimony in the same condition that you left it the night before?

A. As far as I know. Of course, I didn't read it over.

Q. Did you hear the testimony of Allen Dodd read over to him before he signed it?

A. I think so.

Q. Did you read the testimony of Thomas B. Bryan or hear it read to him before he signed it?

A. I think I did hear it read over to him; yes, sir, but I am not sure about that.

Q. Did you hear the testimony of Mr. Griswold read to him before he signed it?

A. No, I don't think so. I think Mr. Griswold read his testimony over himself. I think the papers were handed over to him and he read them himself. That is, as I remember it.

Q. Murtaugh and Dodd were the only two whose testimony you heard read?

A. Well, I couldn't say—my impression is they were all of them except Mr. Griswold—that all of them except him, had the testimony read to them before they signed it.

Q. I know. But you said a moment ago you were not present when all of the testimony was read to these witnesses, and you didn't see them all sign it. Now, what I am trying to find out is, which one of them you had heard the testimony read to, and who was present when it was signed by them.

(Testimony of William G. Glenny.)

By Mr. MAYNARD.—He has already answered that question twice.

A. Well—

By Mr. BICKFORD.—We want him to answer it if he can.

A. To say positively, I couldn't do so, Mr. Bickford.

Q. Was the purpose for which this testimony was given disclosed to you at any time?

A. No, sir, not any more than—well, no, it was not, of course. I formed my opinion from taking it but from nothing that Inspector Zeveley said to me. That was all.

STIPULATION.

It was stipulated and agreed by and between counsel for the respective parties that the testimony of the witness, William M. Glenny, could be transcribed by stenographer, and read over and corrected by the Examiner, and when so read over and corrected by the Examiner the Examiner should attach his certificate thereto stating that the same had been correctly transcribed by the stenographer and when so read over and corrected by the Examiner, his said certificate should have the same effect as if the witness had subscribed the testimony, and sworn to it himself.

HENRY N. BLAKE,
Examiner in Chancery.

I do hereby certify that I have carefully read over the foregoing testimony of the witness, William M.

(Testimony of H. W. McLaughlin.)

Glenny, and corrected the same, and said testimony has been correctly transcribed by the stenographer.

HENRY N. BLAKE,
Examiner.

H. W. McLAUGHLIN, a witness called by the complainant, after being first duly sworn by the Examiner, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Where do you live, Mr. McLaughlin?

A. Missoula, Montana.

Q. How long have you lived there?

A. Since 1887.

Q. What is that? A. Since 1887.

Q. Where did you live immediately preceding your moving to Missoula?

A. Well, I lived at Livingston and Glendive. I moved to Glendive in 1882, and worked for the Northern Pacific Railroad Company until the spring of 1890.

Q. What is that?

A. I say I worked on the Northern Pacific Railroad until the spring of 1890.

Q. What position did you hold there?

A. Superintendent of bridges and buildings.

Q. Superintendent of what?

A. Superintendent of bridges and buildings.

Q. How long did you hold that position on the Northern Pacific?

(Testimony of H. W. McLaughlin.)

A. Until the spring of 1893. And the spring of 1890—the spring of 1883, I mean, until the spring of 1890.

Q. Seven years? A. Yes, sir.

Q. Then what did you do?

A. Well, I was in the lumber business from that on.

Q. From 1890, you say, you were in the lumber business? A. Yes, sir.

Q. What doing?

A. Running a sawmill, and a lumber yard in Missoula. Had a sawmill, and lumber yard and planing factory in Missoula.

Q. How many years have you lived in Missoula?

A. About fourteen years.

Q. About fourteen years? A. Yes, sir.

Q. What position did you hold in the spring and summer and fall of 1899?

A. I was manager for the Western Lumber Company.

Q. Manager for the Western Lumber Company?

A. Yes, sir.

Q. When was the company organized?

A. In the spring of 1899.

Q. Who were the first board of directors?

By Mr. BICKFORD.—We object to all this for the reason that it is irrelevant and immaterial to the issues in this case.

By the EXAMINER.—You can answer the question,

(Testimony of H. W. McLaughlin.)

you can answer the question as soon as the objection is taken down, always.

By the WITNESS.—Did you say to answer?

By the EXAMINER.—Oh, yes, answer when they have put down the objection.

A. W. A. Clark was president.

Q. The defendant in this case, do you mean?

A. Yes, sir, and Mr. A. H. Wethey was vice-president and Mr. Bickford was secretary.

Q. Judge Bickford, the counsel in this case?

A. Yes, sir.

Q. Who was treasurer?

A. I think Mr. Bickford was treasurer.

Q. Treasurer, too? A. Yes, sir.

Q. And who was the general manager?

A. I was myself.

Q. And the first board of directors consisted of Clark, Wethey and Bickford? A. Yes.

Q. And the man in Spokane wasn't there?

A. Yes, some man in Spokane, I have forgotten his name. In fact, I don't know as I know him. I have forgotten the name.

Q. Who held the controlling portion of the capital stock of the company?

By Mr. BICKFORD.—We object to that as immaterial.

A. I think Mr. W. A. Clark. Senator Clark was the

(Testimony of H. W. McLaughlin.)

heaviest stockholder and owned a majority of the stock, I believe.

Q. You may state as to whether or not during that year of 1899, and after the organization of your company you proceeded to build some sawmills?

By Mr. WALSH.—We object to that as leading, and upon the further ground that it is irrelevant and immaterial.

A. We did, yes, sir.

Q. How many did you build?

A. We built one at a little station called Clinton, about eight miles this side of Missoula—east of Missoula.

Q. When did you build that mill, Mr. McLaughlin?

A. I think we started to build that the latter part of March, or the first of April. In April, I think it was.

Q. You may state as to whether or not you built a second mill that same season?

A. Well, last night in talking to you I said we did, but we bought another mill at St. Regis.

Q. Where?

A. At St. Regis, upon the Coeur d'Alene branch of the Northern Pacific Railroad, seven miles west of Missoula.

Q. And at Lathrop?

A. No, it was at St. Regis, the Lathrop mill wasn't put up until the spring of 1900. We built a mill at St. Regis, and a little logging outfit and teams, and a whole thing there.

(Testimony of H. W. McLaughlin.)

Q. When did you buy that?

A. That was bought in September, I think, in 1899.

Q. Did you take possession of the same?

A. Yes, sir.

Q. And operate it? A. Yes, sir.

Q. Did you operate the Clinton mill?

A. Yes, sir.

Q. And then a third mill was built before along in the spring of 1900?

A. The Clinton mill was moved from Clinton to Lathrop and put up there that spring, the spring of 1900.

Q. So you had two mills?

A. Yes, that was a portable mill.

Q. Just where is Lathrop?

A. Thirty miles west of Missoula on the Coeur d'Alene branch of the Northern Pacific.

Q. How long were you general manager of this lumber company?

A. From the spring of 1899, until the spring of 1901.

Q. The spring of 1901? A. Yes, sir.

Q. For what purpose, Mr. McLaughlin, did you company erect this mill and buy the other?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial to the issues in this case.

A. To saw lumber.

Q. To saw lumber?

A. Yes, sir, to manufacture lumber.

(Testimony of H. W. McLaughlin.)

Q. Who for?

A. Oh, for the general trade of the State and W. A. Clark's mines and his buildings that he was comtemplating building, I suppose. I know we furnished a lot of lumber, furnished a lot of lumber to Mr. Clark.

Q. And where were these mines situated?

A. In Butte.

Q. How far was Butte from your mills?

A. Well, from the Clinton mill it was about a hundred and six to a hundred and seven miles, I should judge.

Q. What is that?

A. About 106 or 107 miles from Clinton mill, and from the Lathrop mill it would be about 155, I would judge.

Q. How was the lumber transported from the mills to the mines? A. By railroad.

Q. By what railroad?

A. The Northern Pacific Railroad.

Q. In each case?

A. In each case, yes, sir.

Q. You may state as to—to what uses the lumber is required in the mines.

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial and has no bearing upon the issues in this case.

A. Well, for timbering, principally, timbering.

Q. Well, explain a little bit, because when we get up

(Testimony of H. W. McLaughlin.)

to the Supreme Court of the United States, some of the Judges may not know exactly the process out here.

A. Oh, just posts, caps, timbering to hold up rock, I suppose. I am not a miner, I don't know.

Q. Well, you have been in mines, many times?

A. Oh, yes, of course, I know, that is I have an idea of what it is for.

Q. Well, now state what you know about it?

By Mr. WALSH.—We object to that for the reason that the witness has already stated that he does not know and isn't a miner.

A. Oh, it is for timbering the rock and holding it up while the men are working.

Q. That is to enable the men to work in the mines; these timbers are put up for the purpose of holding up the rocks and earth? A. Yes, sir.

Q. That is, mining cannot be carried on without timbers to sustain the rocks, can it?

By Mr. WALSH.—We object to that as being irrelevant and immaterial to the issues in this case.

A. Not very well.

Q. Well, is it possible?

A. Oh, in hard rock, possibly it is, yes.

Q. You may state, Mr. McLaughlin, what timber lands your company owned at the time of its organization?

A. We owned about fifty or sixty million feet of timber, I should judge.

(Testimony of H. W. McLaughlin.)

Q. Where was that situated, with reference to the mills?

A. Well, at Clinton, it was quite close to the mills. Within three miles of the mill. A portion of the buildings are located on Nine Mile and on the Missoula river. This Nine Mile creek is about twenty-seven miles from Missoula, west on the Coeur d'Alene branch.

Q. With your mill capacity how long would that supply last?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial and has no bearing on the issues in this case.

A. Well, with the mill capacity that we had at that time—

Q. I mean your two mills?

A. It would last about five or six years, I should judge.

Q. You think it would last as long as that.

A. Oh, for four or five, or six years, I should judge.

Q. That is, with the two mills?

A. Yes, with the two mills. They were small mills.

Q. You may state, Mr. McLaughin, as to whether or not, as general manager of your company, in the early part of the season of 1899 you went to Butte and saw the defendant, Senator Clark, with reference to buying some timber for your mills?

By Mr. WALSH.—We object to that upon the ground that it is leading, and further for the reason that it is irrelevant and immaterial.

(Testimony of H. W. McLaughlin.)

A. Yes, sir, I did several times during that spring.

Q. You will please now give testimony on the question—on the conversation that you had with the defendant on that subject.

A. Well, my advice to him always had been to get timber, to buy timber; that the company had been organized for that purpose and we wanted to get timber.

Q. You may state as to whether or not, as the result of the several conversations that you had with him, you were authorized to get timber by him.

By Mr. WALSH.—We object to that upon the ground that it is leading.

A. Certainly.

Q. When you received this authority from the defendant, Clark, state what you did.

A. Well, after he told me to buy timber—now this is with reference to the Blackfoot timber. You have reference to the Blackfoot timber now, and the conversation I had with him about getting timber on the Blackfoot?

Q. Yes, sir, that is what I had reference to.

A. Well, my advice to him was, to get timber. In fact, if he could; and I suggested that he try and get about a hundred million feet, and he suggested that forty million feet would be enough, and I came back and I had understood that Mr. Cobban had options on timber land on the Blackfoot, and I went to him and asked him if he could spare forty million feet, and he said he thought he could, but he wanted to know as to

(Testimony of H. W. McLaughlin.)

the price, and I told him I couldn't tell what price, and he made some arrangements—finally.

Q. He made what?

A. He made some arrangements about the price of the timber, and the—I forget now what the first deed and the abstracts called for, but I think it was forty or fifty millions in the first deed that he got. I think it was about 40,000,000 feet.

Q. That is the first deed from Cobban to the defendant? A. Yes, sir.

Q. Was this—how early in the season of 1899 was it that you first went to Cobban to see about his furnishing you timber from the Blackfoot country?

A. Well, I cannot exactly tell. In was June or July. I cannot exactly tell the date. It was somewhere along there in June or July.

Q. Of the year 1899? A. Yes, sir.

Q. Well, now, state when you saw him just exactly what arrangements did you make with Cobban in behalf of your principal, Senator Clark, the defendant, just what you did.

A. Well, there was no particular arrangements made at all; the only thing was to—he said he thought he could furnish the amount of timber. That is about the only arrangements I made with him.

Q. Well, who was to enter into the details?

A. Well, I was to see to the getting of the timber; that is, to know the amount was on each claim, and see

(Testimony of H. W. McLaughlin.)

that it was the right kind of timber and see that the timbers were right, which I did.

Q. How long were you engaged in that work?

A. Oh, off and on, all summer. A part of the next season I think, too, of 1900.

Q. That would be the summer and fall of 1899, and the next year of 1900?

A. The next spring of 1900. There was a lot of scrip lands, I think, bought in 1900. There was a lot of scrip land bought in 1900.

Q. Where were you living all this time?

A. In Missoula, that is my home.

Q. Well, you were in and about Missoula all the time, were you not?

A. All the time, yes, sir.

Q. How long, when you went to see Mr. Cobban, had you known him?

A. Oh, I had known Mr. Cobban for the last ten years.

Q. How long?

A. About ten years, I think.

Q. You had known him then about all the time that you had been a resident of Missoula?

A. Pretty near. I think it was 1890, 1891 or 1892 that I got acquainted with Mr. Cobban first. I furnished Mr. Cobban with quite a lot of timber when I was in the business there near Missoula.

Q. Now, you have stated what you were to do,

(Testimony of H. W. McLaughlin.)

Weren't there other things that you were to do in connection with this work? A. No.

Q. How about the abstracts of title?

A. Certainly, the estimates and the abstracts, and those compared with the estimates.

Q. That is the deeds from different persons to Mr. Cobban? A. Yes, sir.

Q. And the abstract of title, what is that?

A. Yes, sir, I will tell you how I done that. The estimates were put first, that was about the first that we looked over.

Q. Well, now, just explain this, all the A B C's. I want you to explain it to me a little bit. When you say estimates, just what do you mean by that?

A. Well, now here, the description of a piece of land or a description of several pieces of land would come and the estimate opposite the description. The number of feet that would be on, say, 160 acres, or eighty acres, or forty acres, would be opposite the description, and you take 40,000,000 or 50,000,000 and there is several pieces of ground—land. They would come with a list and right opposite the description would be the amount of timber that would be on each tract of land. Then when we would agree on the estimates, we would take the estimate and the description and go over the deed and the abstract and see that they corresponded and check that all off, and when we was done, the abstracts or estimates and the deeds went to Mr. Bickford for final check. Now, my work ended right there.

(Testimony of H. W. McLaughlin.)

Q. They were sent to Mr. Bickford. That is, the counsel here? A. Mr. Bickford, here, yes, sir.

Q. To his office in Butte?

A. Yes, sir, I think the first 40,000,000 or 50,000,000, I think it was between 40,000,000 and 50,000,000—I have forgotten the exact amount that was in the first deed—I think that I went over to Butte myself and met Mr. Cobban there in Mr. Bickford's office, and the three of us went over the deeds and abstracts and the estimates and checked them all off and rechecked them.

Q. You and Bickford and Cobban?

A. I think that was the first time. I believe that was the only one of them. I think that Mr. Bickford sent to me once after that if I am not mistaken, to come there and help him check it up.

Q. Do you know what contract or agreement that Mr. Cobban entered into with Senator Clark, the defendant in this case, relative to the price that he was to receive?

A. I don't know that there was any contract at all.

Q. You never saw one?

A. I never saw one, in fact, I am sure there was no contract.

Q. Well, how much was he to receive? How much was the defendant to pay Cobban a thousand, or whatever it was?

A. A thousand feet, per thousand?

Q. Per thousand, yes.

A. A dollar and twenty-five cents.

(Testimony of H. W. McLaughlin.)

Q. Clark was to pay Cobban a dollar and twenty-five cents per thousand feet? A. Yes, sir.

Q. Where, standing on the ground?

A. Standing on the ground, yes, sir.

Q. Standing on the ground?

A. Yes, I know that they wrangled quite a while; Mr. Cobban wanted a dollar and a half and Mr. Clark wouldn't pay it, and I think the—oh, there was two months or more after the time it was first taken up until an agreement was made about the price.

Q. So that all there was to it was simply this, that the defendant would buy from Cobban all the pine land or the pine and timber land that was offered by him at a dollar and twenty-five cents per thousand feet, standing, that was approved by his agent?

By Mr. WALSH.—We object to that upon the ground that it is leading.

Q. That was the sum and substance, was it not?

By Mr. WALSH.—We object to that as being leading also, and further, upon the ground that it is irrelevant and immaterial, and has nothing to do whatever with the issues in this case.

A. That is the sum and substance, about forty million feet, yes, sir.

Q. Now, then, who did you have up there in the Blackfoot country to do the scaling for you of the timber that was offered by Mr. Cobban?

(Testimony of H. W. McLaughlin.)

A. I had a man up there by the name of William Sparks.

Q. Who is he?

A. He is a man up there who has been in the lumber business.

Q. Where is he?

A. He is in Missoula, I believe.

Q. What does he do?

A. He is an estimator for the Western Lumber Company.

Q. Is he working for them now?

A. I think so, yes, sir.

Q. Well, now, please tell me just what William Sparks' duties are?

A. Well, his duties were to estimate the different tracts of land that were in these deeds that Mr. Cobban had for sale, and send the estimate to me as near as I—I received an estimate about once a week from him.

Q. And when did you receive your first estimate from Sparks?

A. I think it was along in October. I am pretty sure that was when Mr. Sparks first went out, in October, 1899. It might possibly be the last of September. I wouldn't be positive abont that, but I think it was the last of September or in October sometime.

Q. Sparks was, at that time, and had been, for sometime preceding in the employ of the defendant.

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and leading.

(Testimony of H. W. McLaughlin.)

A. He was in the employ of the Western Lumber Company.

Q. Was he in the employ of the company from the time of its organization?

A. No, not for sometime afterwards, a month or six weeks afterwards, probably, that I got him to work for me.

Q. About two months after the organization of the company Sparks was hired?

A. About a month or six weeks, I couldn't exactly say the time. I know before starting the mill at Clinton I had him run those lines up there and make estimates and he had been in the Nine Mile country estimating.

Q. Well, what was the nature of his business?

By Mr. BICKFORD.—We object to that for the reason that it has already been testified to by the witness.

Q. That is what he was hired for?

A. Yes, that is what he was hired for.

Q. To estimate the timber?

A. Yes, sir, to estimate timber.

Q. How many times, Mr. McLaughlin, did you see Mr. Cobban during the months of June, July, and August and September of that year?

A. Oh, I seen him frequently. I don't know. I seen him up there every time he had an estimate.

Q. What is that?

A. I seen him up there every time he would have an estimate ready for to look over. I see him quite often;

(Testimony of H. W. McLaughlin.)

I couldn't tell you how many times, I see him quite often though.

Q. Well, Missoula is a small place, isn't it?

A. Oh, 6,000 or 7,000 I should judge.

Q. Well, you knew where his office was?

A. Yes, sir.

Q. Were you there quite frequently in his office?

A. Oh, I went there several times, yes.

Q. And during this summer, when you was in Cobban's office you knew of the fact that he was engaged in getting up this land, did you not?

By Mr. WALSH.—We object to that as leading.

A. Oh, I knew that he was buying—getting the timber.

Q. Then, when did you first receive deeds and abstracts from him for examination?

A. I think that was—I will not be positive, but I think it was the latter part of August or the first of September, 1899.

Q. Do you remember how many you received?

A. All told, do you mean?

A. No, the first batch there.

A. That is what I say, I think the first batch that we got was between 40,000,000 and 50,000,000 feet. I don't know the number of acres. I forget the number of acres.

Q. Now, let me understand you. Now, here is a certified copy of the deed of this witness, Vital Cyr, who

(Testimony of H. W. McLaughlin.)

was just on the stand. Now, let me understand you. Just tell me what he did when he first came to you with these deeds; would he bring that deed there, if you please, for illustration.

A. Yes, he used to have a stack of them.

Q. Used to have a stack of them?

A. Yes, also after that we would agree on the estimates for those already inserted in one deed.

Q. That is to Clark? A. Yes; to Clark.

Q. Yes, sure. Then what he did was to bring to you the original deeds from his grantors, and also accompanying them with these abstracts of the title, and present them to you.

A. Well, as a rule the abstract of title wouldn't come until the deed to Mr. Clark was made out.

Q. Oh! until he got ready to convey this land to Clark, the abstract of title didn't come? A. No, sir.

Q. Was that what—so that deed would be just—so that that would be just simply the deeds themselves?

A. The names never appeared in the lists that I had to check the estimates from.

Q. What names didn't appear?

A. I say the names, nor the dates didn't appear when I first checked the estimates, then I would take that check when he would present these deeds, I would take this check list that I had and check each tract of land with the amount that would be on the estimated check list, as we used to call it.

Q. As I understand you, then, this work had been con-

(Testimony of H. W. McLaughlin.)

tinued, the checking and making the estimates, prior to the time of the presentation of the deeds for the purposes of comparison.

A. Oh, yes; about the same time. Sometimes they would be over and other times they wouldn't. This all done about the same time. That would be my first work. I would go and check off the amount of the timber.

Q. From the estimates that had been furnished you by Sparks? A. By Sparks, yes.

Q. So I say that all of the work of measurements had been done by Sparks prior to this comparison?

A. Well, you know the deeds would come before ever I would make the estimates at all. I wouldn't know—I wouldn't need the estimates of the lands to check off until the deeds were done. The whole thing would be checked off probably the same day.

Q. Probably the same day.

A. Yes; that is, the deeds, and the estimates we would check off everything altogether.

Q. Look here, Mr. McLaughlin, you don't understand me or I don't understand you. Now, then, I present to you a deed of the northwest quarter of section 18, township 16 north, range 14 west, Montana Meridian.

A. Yes, sir.

Q. Now, then, I say from Mr. Sparks, for the purposes of this inquiry, I am Mr. Cobban, and I want to sell this to the defendant, and this here is the deed that I received from Mr. Vital Cyr. Now, do you mean to tell me, that you made the estimate on the land here up in the

(Testimony of H. W. McLaughlin.)

Blackfoot country on the same day that this deed was presented? A. Oh, no.

Q. Well, I think not.

A. No, not in the estimate. I would check the estimates the same day that I would get the deed.

Q. Well, of course, certainly. That is what I asked you. You would check the estimate the same day that you received the deed? A. Yes, sir.

Q. But in order to check the estimate the work must have been done by your representative in the field up in the Blackfoot country long before.

By Mr. WALSH.—We object to that as leading.

A. Not very long before.

Q. How far were those lands from your office in Missoula? A. Oh, some of them 70 miles.

Q. Seventy miles? A. Yes, sir; 70 miles.

Q. Now, will you explain how you were able to check from your table the list of work that had been done long before this? A. You say long, how long?

Q. Well, a sufficient length of time for Sparks to have gone up there and done the scaling, and transmitted the result of his work down to you at your office.

A. Some of them deeds used to be made out thirty days, and forty days before ever they would come to me at all. There was lots of them. It would take some time, you know, to go there and check a tract of ground. The deeds never was made on the same day I got them. I don't want you to misunderstand that. Some of these deeds would

(Testimony of H. W. McLaughlin.)

be thirty and forty days old before they would come to me at all.

Q. Well, had your estimates been made before you got the deeds?

A. Why, certainly; I used to get the estimates about once a week.

Q. Where from? A. From Sparks.

Q. Well, where would Sparks get his data on the land that he was to make his measurements of?

A. Well, the first batch I gave him the numbers of pretty near all of them when he was in the field.

Q. Well, where did you get your numbers?

A. I got them from Mr. Cobban.

Q. You got those numbers from Mr. Cobban?

A. Yes, sir.

Q. Do I understand you that was thirty or forty days before you received the deeds?

A. Oh, it must have been thirty days because the deeds when he would have 20,000,000 or 30,000,000 or 40,000,000 he would bring in all of the deeds and some of them would be 20 or 30 days old.

Q. Now, we are beginning to understand each other. You say long before, thirty or forty or fifty days, long before you would receive the deeds from Mr. Cobban he gave you the descriptions to send up to your man in the field to make his estimates from.

A. Oh, not that long. The man was in the field. Cobban had estimators, one or two or three or four. I know he had one man in the field, and my estimators and him

(Testimony of H. W. McLaughlin.)

used to work together, and Mr. Cobban had him hired to go over the timber himself.

Q. Mr. Sparks was?

A. Mr. Cobban had him, and remained with Mr. Sparks to go over these tracts of land himself.

Q. Who was Mr. Cobban's man?

A. I can't think of his name now.

Q. What was his name, Mr. Hambly?

A. Yes, Hambly; they used to go together.

Q. That is, Mr. Hambly and Mr. Sparks?

A. Mr. Cobban's estimator.

Q. Mr. Hambly, the estimator for Cobban, and Mr. Sparks, Senator Clark's estimator, would go together?

By Mr. BICKFORD.—We object to that. He says and has all the time assumed that he was an estimator for the Western Lumber Company, and we object to counsel endeavoring to entrap the witness into testifying to matters that he would not otherwise testify to.

Q. And they worked together, did they not?

A. They worked together; yes, sir.

Q. Up in the Blackfoot mountain country?

A. Yes, sir; Mr. Cobban took—these two men, this estimator for Mr. Cobban and Mr. Sparks, they had them up there a month making our estimates entirely. I don't know as he had a man there. He might have though, for all I know. Mr. Sparks was up there, I think, a month alone.

Q. Now, then how long was Sparks and Hambly work-

(Testimony of H. W. McLaughlin.)

ing together up there in the country doing this estimating?

A. Well, Sparks worked there that fall, the fall of 1899 until the snow drove him in the fall. He went up again in the spring, just as quick as he could get up there again, when the snow went off. I don't remember the time, Mr. Maynard.

Q. Then, when Sparks and Hambly had estimated the timber growing on these different descriptions, then your man, Sparks would send their results of their work down to you?

By Mr. BICKFORD.—We object to that upon the ground that it is leading.

A. Yes, sir.

Q. And there is where you got your list of descriptions of the land and the estimates of the timber growing thereon.

By Mr. BICKFORD.—We object to that for the reason that it is leading.

A. Yes, sir; Mr. Sparks, or Mr. Cobban's man used to send his estimates to Mr. Cobban and then we would get the estimates together, and sometimes my estimation would be under and sometimes it would be over, and we would get together and adjust the estimate.

Q. Then, as a matter of fact, Mr. Sparks had the work substantially done before the deeds were tendered to you at all? A. Yes, sir.

Q. You only worked—and the only work that you did, or had to do when the deeds were tendered to you by

(Testimony of H. W. McLaughlin.)

Cobban, was to verify them and to see that the descriptions tallied, was it not, Mr. McLaughlin?

By Mr. BICKFORD.—We object to that as being leading.

A. Yes, sir; and agree on the estimate.

Q. And agree on the estimates?

A. Yes, sir; and agree on the estimates.

Q. Well, you had agreed on the estimates, hadn't you?

A. Oh, no; we hadn't agreed on the estimates.

Q. Well, you had received your—the result of both of these estimators' work long before you received the deed?

A. No, not long, no; we hadn't ageed until Mr. Cobban presented these deeds. We never agreed on the estimates until the deeds were presented.

Q. That is, the final result of the agreement would not be made until the deeds were presented?

A. Well, there was no agreement until the deeds were presented, because no final—the final agreement was all the agreement there was between us, because we never got together to agree until the deeds were presented.

Q. You never got together to finally agree until the deeds were presented?

A. Until the deeds were presented.

Q. Had the work of making the estimates been made?

A. Oh, yes; they had been made, certainly.

Q. The work of the estimates then had been made before the deeds were presented?

A. That had been made; yes, sir.

(Testimony of H. W. McLaughlin.)

At this point a recess was taken until two o'clock P. M. of the same day.

Thursday, March 21st, 1902, 2 P. M.

It is stipulated that the Examiner may certify that the testimony of the witness Vital Cyr has been correctly transcribed and that it shall have the same effect as if the testimony had been read and corrected by the said witness.

Thereupon the direct examination of the witness H. W. McLaughlin was resumed.

(By Mr. MAYNARD.)

Q. Now, Mr. McLaughlin, when did you say the first deed was made from Cobban to Clark?

Mr. BICKFORD.—We object to that because it is not the best evidence of the fact sought to be adduced from the witness, the deed itself being the best evidence; furthermore, the witness should be allowed an opportunity to refresh his recollection from the deed if he is to be asked concerning it.

Q. What is your answer?

A. Well, I cannot answer that—that is, correctly; I think the first deed was—

Mr. BICKFORD.—You need not answer if you don't know. A. I don't know exactly.

Mr. WALSH.—The witness ought to have the deed to refresh his recollection.

The EXAMINER.—He can have it.

(Testimony of H. W. McLaughlin.)

Q. What were you about to say, the first deed was when?

Mr. BICKFORD.—If you want the deed to refresh your recollection you can have it.

The EXAMINER.—He has that right under our statute.

The WITNESS.—I ask for the deed.

Q. I don't know, the first one I picked up is dated the 29th of July?

A. I was going to say the latter part of July or the first of August; I was not sure.

Q. I understood you to say this morning you thought the first deed was in October?

A. No; I think I said this morning either the latter part of July or the first of August, I was not sure; I think it was the latter part of July or first of August.

Mr. MAYNARD.—I desire to read them into the record, the first deed that I show the witness is Complainant's Exhibit No. 75, a deed from R. M. Cobban and Alice M. Cobban, his wife, to William A. Clark.

By Mr. WALSH.—I want to make the objection that the testimony sought to be read into the record is irrelevant, redundant and immaterial; does not prove or tend to prove any fact in issue in the case, because the answer filed in the case alleges the execution of all of the deeds concerning which the land in controversy relates and because it stands as an admitted fact that the transfers were made in accordance with the affirmative allegations con-

(Testimony of H. W. McLaughlin.)

tained in the defendant's answer with reference to the quantity of land sold, the date of sale, the parties who sold and the parties who purchased the land, together with the consideration paid therefor, and that no issue exists at this time, either as to the land, the parties or the consideration.

(Mr. MAYNARD reads:) This Indenture made the 16th day of September, 1899, between R. M. Cobban and Alice M. Cobban, husband and wife, of Missoula, and William A. Clark, by which the said parties of the first part for and in consideration of the sum of fifteen thousand thirty-one dollars and twenty-five cents, convey the land herein described.

Mr. WALSH.—We now move to strike this out because it is not testimony given by any witness.

Mr. MAYNARD.—I now read from Complainant's Exhibit No. 75, being a deed from R. M. Cobban and Alice M. Cobban, husband and wife, of Missoula, to William A. Clark.

Mr. WALSH.—I want to make the objection that the testimony sought to be read into the record is irrelevant, redundant and immaterial; does not prove or tend to prove any fact at issue in the case, because the answer filed in the case alleges the execution of all of the deeds concerning which the land in controversy relates, and because it stands as an admitted fact that the transfers were made in acordance with the affirmative allegations contained in the defendant's answer, with

(Testimony of H. W. McLaughlin.)

reference to the quantity of land sold, the date of sale, the parties who sold and the parties who purchased the land, together with the consideration paid therefor, and that no issue exists at this time either as to the land, the parties or the consideration.

(Mr. MAYNARD reads:) This Indenture made the 11th day of November, 1899, by and between R. M. Cobban and Alice M. Cobban, husband and wife, of Missoula, and William A. Clark, by which the parties of the first part for and in consideration of the sum of $35,512.50, convey the lands therein described.

Mr. WALSH.—Now we move to strike this out because it is not the testimony of any witness.

Mr. MAYNARD.—I next read from Complainant's Exhibit No. 76, deed from R. M. Cobban and wife, to William A. Clark, as follows:

By Mr. WALSH.—I want to make the objection that the testimony sought to be read into the record is irrelevant, redundant and immaterial; does not prove or tend to prove any fact in issue in the case, because the answer filed in the case alleges the execution of all of the deeds concerning which the land in controversy relates and because it stands as an admitted fact that the transfers were made in accordance with the affirmative allegations contained in the defendant's answer with reference to the quantity of land sold, the date of sale, the parties who sold and the parties who purchased the land, together with the consideration paid therefor,

(Testimony of H. W. McLaughlin.)

and that no issue exists at this time either as to the lands, the parties or the consideration.

(Mr. MAYNARD reads:) This Indenture made and entered into this 9th day of January, 1900, by and between R. M. Cobban and Alice M. Cobban, husband and wife, and William A. Clark, by which the said parties of the first part for and in consideration of the sum of $18,850, convey the lands therein described to the defendant.

Mr. WALSH.—We now move to strike this out because it is not the testimony of any witness.

Mr. MAYNARD.—I next read from Complainant's Exhibit No. 77, dated the 29th of July, 1899, being a deed from R. M. Cobban and Alice M. Cobban, husband and wife, to William A. Clark.

Mr. WALSH.—I want to make the objection that the testimony sought to be read into the record is irrelevant, redundant and immaterial; does not prove or tend to prove any fact in issue in the case, because the answer filed in the case alleges the execution of all of the deeds concerning which the land in controversy relates, and because it stands as an admitted fact that the transfers were made in accordance with the affirmative allegation contained in the defendant's answer with reference to the quantity of land sold, the date of sale, the parties who sold and the parties who purchased the land, together with the consideration paid therefor and that no issue exists at this time either as to the land, the parties or the consideration.

(Testimony of H. W. McLaughlin.)

(Mr. MAYNARD reads:) This Indenture made the 29th day of July, 1899, by and between Robert M. Cobban and Alice M. Cobban, husband and wife, of Missoula, and William A. Clark, of Butte, Silver Bow County, by which the said parties of the first part for and in consideration of the sum of $7,656, convey the lands therein described to the defendant.

Mr. WALSH.—We now move to strike this out as not being testimony given by any witness.

Q. I wish you would examine this deed, Mr. McLaughlin, I mean as to the land and as to the situation of that land?

A. Oh, well, I would not know, Mr. Maynard.

Mr. MAYNARD.—I next read from Complainant's Exhibit No. 78.

Mr. WALSH.—I want to make the objection that the testimony sought to be read into the record is irrelevant, redundant and immaterial; does not prove or tend to prove any fact in issue in the case, because the answer filed in the case alleges the execution of all of the deeds concerning which the land in controversy relates, and because it stands an admitted fact that the transfers were made in accordance with the affirmative allegations contained in the defendant's answer with reference to the quantity of land sold, the date of sale, the parties who sold and the parties who purchased the land, together with the consideration paid therefor, and that no issue exists at this time either as to the land, the parties or the consideration.

(Testimony of H. W. McLaughlin.)

Mr. WALSH.—We now move to strike this out, it not being testimony given by any witness.

(Mr. MAYNARD reads:) This Indenture made the 16th day of September, 1899, by and between R. M. Cobban and Alice M. Cobban, husband and wife, and William A. Clark, by which the parties of the first part convey the lands described in said deed to William A. Clark for the sum of $21,875.00.

Mr. WALSH.—We now move to strike this out as not being testimony given by any witness.

Mr. MAYNARD.—I next read from Complainant's Exhibit No. 79, a deed from Cobban to Clark.

Mr. WALSH.—I want to make the objection that the testimony sought to be read into the record is irrelevant, redundant and immaterial; it does not prove or tend to prove any fact in issue in the case, because the answer filed in the case alleges the execution of all of the deeds concerning which the land in controversy relates, and because it stands as an admitted fact that the transfers were made in accordance with the affirmative allegations contained in the defendant's answer with reference to the quantity of land sold, the date of sale, the parties who sold and the parties who purchased the land, together with the consideration paid therefor, and that no issue exists at this time either as to the land, the parties or the consideration.

(Mr. MAYNARD reads:) This Indenture made this 13th day of November, 1899, by and between R. M. Cob-

(Testimony of H. W. McLaughlin.)

ban and Alice M. Cobban, husband and wife, of Missoula, and William A. Clark, of Butte, Silver Bow County, by which the said parties of the first part, for and in consideration of the sum of $33,718.75, convey the lands therein described.

Mr. WALSH.—We now move to strike this out because it is not the testimony of any witness.

Mr. MAYNARD.—I next read from Complainant's Exhibit No. 80, a deed of land from R. M. Cobban and Alice M. Cobban to William A. Clark.

Mr. WALSH.—I want to make the objection that the testimony sought to be read into the record is irrelevant, redundant and immaterial; does not prove or tend to prove any fact in issue in the case, because the answer filed in the case alleges the execution of all of the deeds concerning which the land in controversy relates, and because it stands as an admitted fact that the transfers were made in accordance with the affirmative allegations contained in the defendant's answer with reference to the quantity of land sold, the date of sale, the parties who sold and the parties who purchased the land, together with the consideration paid therefor, and that no issue exists at this time either as to the land, the parties or the consideration.

(Mr. MAYNARD reads:) This Indenture made and entered into the 9th day of January, 1900, by and between R. M. Cobban and Alice M. Cobban, husband and wife, of Missoula, Montana, and William A. Clark, of

(Testimony of H. W. McLaughlin.)

Butte, Silver Bow County, Montana, by which the said parties of the first part for and in consideration of sum of $9,481.25, convey to the saidWilliam A. Clark the lands described in said deed.

Mr. WALSH.—We now move to strike this out as not being the testimony of any witness.

Mr. MAYNARD.—I next read from Complainant's Exhibit No. 81.

Mr. WALSH.—I want to make the objection that the testimony sought to be read into the record is irrelevant, redundant and immaterial; does not prove or tend to prove any fact in issue in the case because the answer filed in the case alleges the execution of all of the deeds concerning which the land in controversy relates, and because it stands as an admitted fact that the transfers were made in accordance with the affiramative allegation contained in the defendant's answer with reference to the quantity of land, sold, the date of sale, the parties who sold and the parties who purchased the land, together with the consideration paid therefor, and that no issue exists at this time either as to the land, the parties or the consideration.

(Mr. MAYNARD reads:) This Indenture made and entered into this 15th day of June, 1900, by and between R. M. Cobband and Alice M. Cobban, husband and wife, and William A. Clark, by which the parties of the first part convey to William A. Clark for and in con-

(Testimony of H. W. McLaughlin.)

sideration of the sum of $3,325, the lands described in said deed.

Mr. WALSH.—We now move to strike this out as not being the testimony of any witness.

Mr. MAYNARD.—I next read from Complainant's Exhibit No. 82.

Mr. WALSH.—I want to make the objection that the testimony sought to be read into the record is irrelevant, redundant and immaterial; does not prove or tend to prove any fact in issue in the case, because the answer filed in the case alleges the execution of all the deeds concerning which the land in controversy relates, and because it stands as an admitted fact that the transfers were made in accordance with the affirmative allegations contained in the defendant's answer with reference to the quantity of land sold, the date of sale, the parties who sold, and the parties who purchased the land, together with the consideration paid therefor, and that no issue exists at this time either as to the land, the parties or the consideration.

(Mr. MAYNARD reads:) This Indenture made and entered into this 15th day of June, 1900, by and between R. M. Cobban and Alice M. Cobban, husband and wife, and W. A. Clark, by which the said parties of the first part for and in consideration of the sum of $62,502.50, convey the lands therein described to the said defendant William A. Clark.

(Testimony of H. W. McLaughlin.)

Mr. WALSH.—We now move to strike this out as not being the testimony of any witness.

Q. Now, Mr. McLaughlin, the date of this first deed was on the 29th day of July, 1899, have you any present recollection as to any of the facts and circumstances connected with the execution of this deed?

A. Well, nothing more than what I stated to you this morning, at the present time I could not give the numbers nor the amounts, or names, or the description of the land, could not identify the description of the land nor the amount of timber on it.

Q. Now, then, refresh your recollection, Mr. McLaughlin, by the fact that this deed was executed on the 29th day of July, 1899, how long a time would you say had elapsed between this date and the date of your first seeing Mr. Cobban relative to his entering into these transactions?

A. Oh, it may have been a month or six weeks; I don't know; I can't exactly tell.

Q. Now, do I understand your recollection is vague in this matter?

A. As to the dates, I cannot exactly tell the dates.

Q. When you say it may have been a month or six weeks, does that also mean that it might have been two months or three months?

A. No, it could not have been after the organization of the company, that was in March, it may have possibly been in April or in May, that I had the talk with Mr. Cobban.

(Testimony of H. W. McLaughlin.)

Q. It may have been when?

A. In April or May; I cannot exactly fix the date or the month; I paid no attention to it.

Q. Well, did your conversation with Cobban in regard to this matter begin and end with one talk with with him?

A. Oh, no, almost every batch of timber that would come up we would have a talk about it, most every estimate.

Q. You had a talk with him? A. Yes.

Q. Whereabouts would these talks take place?

A. Oh, in Missoula.

Q. What would be the subject matter of your talk?

A. Well, he would come to me to see about a batch of timber and say he had so much timber to sell, want to know if I thought Senator Clark would take it, and I told him I would see what could be done about it, possibly could get him to take it.

Q. Hadn't a contract already been made and entered into by which you were to take at least a hundred million? A. No, sir.

Q. Didn't you say this morning that when you went to see Cobban yourself in behalf of Senator Clark that you wanted to know if he could not get a hundred million for you?

A. I don't think I said that, I said this: That when I had the talks with Senator Clark he wanted to know about how much he ought to take and I advised him to take a hundred million if he could get it, and at the

(Testimony of H. W. McLaughlin.)

time of the first talk, the time he told me to go and get the timber he only wanted to take forty million, he thought forty million would do, that was the first deal.

Q. That was the first what?

A. That was the first talk I had with him.

Q. With Clark? A. Yes, sir.

Q. Well, then, when did you have your second one?

A. Well, when Mr. Cobban had gotten another batch of timber he told me he had this, I forget whether it was the second or third batch of timber and he bought it, and he told me about it and the timber was estimated and we agreed on the estimate and we went and seen Mr. Wethey, Mr. Wethey corresponded with Senator Clark, I think he was in Washington or New York at the time, he corresponded with Mr. Clark and he did not want to take any more, and I believe that Mr. Cobban told me at the time that he had a chance to sell the timber to the Blackfoot people, and that hung fire for quite a while and I hated to give up buying the timber, and I went to the Clark people again and got them to take that, I think it was the second or third batch of timber.

Q. Well, now, as a matter of fact, before you got through they not only acted upon your suggestion that you buy a hundred million from Cobban, but as a matter of fact you bought nearly two hundred million from him, didn't you?

Mr. BICKFORD.—We object to that as leading and immaterial.

(Testimony of H. W. McLaughlin.)

A. I cannot say as to how many million I did buy, but I would judge that there were over a hundred million, I do not know; I never figured up how many million feet there was.

Q. Didn't you tell me last night as a matter of fact that they bought nearly two hundred million feet?

A. No, I said it was over a hundred million, more than a hundred million feet.

Q. Didn't you say there were nearly two hundred million?

A. It is almighty easy to figure it up.

Q. I have got the figures, I am asking you?

A. No, sir, I did not say so; I said it was between a hundred and two hundred million feet; that is just what I told you.

Q. Now, then, isn't it a fact that when you first went to see Mr. Cobban in behalf of Senator Clark that you told him you wanted to get at least a hundred million?

Mr. BICKFORD.—That is objected to as leading.

A. Well, sir, I told him I thought possibly we would take a hundred million feet, that is just exactly what I said, but the conversation I had with Senator Clark, in fact two or three of them, was he did not want to take over forty million.

Q. This sum in this first deed was $7,656, do you know how Cobban was paid?

A. No, I do not know.

Q. You don't know that?

(Testimony of H. W. McLaughlin.)

A. No, I don't know that.

Q. No, then, in this first deed, at least this deed of date July 29th, 1899, there are comparatively few descriptions.

Mr. WALSH.—We move to strike out the statement of counsel no question having been asked the witness.

Q. I wish you would look it over?

A. I looked it over here a minute ago.

Q. Have you any recollection whatever as to any of these lands?

A. No, I have not; I could not tell you anything about it.

Q. Can you tell from the township and range where they are situated? A. Yes, certainly.

Q. Where is that?

A. I could not—I know they are in Deer Lodge County; I see here by the deed they are in Deer Lodge County; that is all I can tell.

Q. Are you able from an examination of this deed to state whether these lands are in the Blackfoot country or not?

A. Well, certainly they are, yes, sir.

Q. You are able to say that much?

A. Oh, yes, townships 15 and 16 and 17 are up in the Blackfoot country.

Q. Now, that was the first deed that Mr. Cobban made to Mr. Clark.

Mr. BICKFORD.—We object to statement of counsel,

(Testimony of H. W. McLaughlin.)

there being no questinon asked, and we move to strike it out.

Mr. MAYNARD.—I had not finished it.

Mr. WALSH.—Finish it then.

Q. Now, then, do you know where that deed was executed in fact?

A. I know the deed was executed over in Missoula.

Mr. WALSH.—We move to strike out the answer, because the deed itself is the best evidence of the facts sought to be proved.

Q. In your presence?

A. Just as I told you this morning the deed and the abstracts were gone over before they left Missoula at all, of course I could not say—

Q. That is, you had this notary public, Wallace P. Smith—he working in Mr. Cobban's office, wasn't he?

A. No, sir.

Q. Where was he working?

A. He has got a law office there himself in Missoula.

Q. Now, what I am trying to find out, Mr. McLaughlin, did you look at the deeds that Mr. Cobban had received, which contains the descriptions which are embraced in his deeds to Clark?

A. I certainly did, yes, sir.

Q. For what purpose did you look at them?

A. I looked at them to prove the descriptions of the estimators and the amount of timber that was in the estimate, checked them off, every one of them.

(Testimony of H. W. McLaughlin.)

Q. And you did that with each of these deeds?

A. Each of these deeds, yes, sir.

Q. Did you have anybody to assist you?

A. Why, Mr. Cobban and I went over them together.

Q. Anybody else?

A. No, sir, not in Missoula.

Q. And you examined all of the deeds which Mr. Cobban had received?

A. Every deed that was in.

Q. Have you any present recollection as to the number of deeds that you so examined?

A. Oh, no, I have not, not now. I paid no attention to them after I had checked them off and found that they were on these deeds that were deeded to Senator Clark.

Q. Did not pay any attention to the deeds?

A. Paid no attention to them at all.

Q. How much time did you spend in the examination of these deeds would you say, Mr. McLaughlin?

A. Sometimes we were a day or a half a day in the bunch.

Q. In the bunch? A. Yes, sir.

Q. Well, have you any recollection at all as to the time that you spent in the examination of the deeds containing the lands that were described in this first deed of Cobban to Clark?

A. No, I have not any idea.

Q. Where were you when you and Cobban made this examination?

(Testimony of H. W. McLaughlin.)

A. We were in Cobban's office in Missoula.

Q. And you spent that time on each one of these nine conveyances from Cobban to Clark?

A. No, I said some of them. I took a day and a half to examine them.

Q. What about others?

A. There were others did not take half a day.

Q. I mean you spent whatever time was necessary on each of the nine deeds?

A. Yes, sir, I examined every one of them.

Q. Just you and Cobban alone? A. Yes, sir.

Q. Nobody assisted you there in Missoula?

A. No, sir.

Q. And then you sent them over to Mr. Bickford?

A. Then I sent them over to Mr. Bickford.

Q. Did you know any of the grantors?

A. Oh, several of them.

Q. Did Cobban, I mean? A. Yes, sir.

Q. Can you remember any of them now?

A. Yes, there was several of them up there in the Blackfoot and in Missoula, several of them that I know; lots of them I know by sight, but I don't really know their names.

Q. Lots of them that you know by sight?

A. Yes, sir.

Q. Give us those that you can call by name?

Mr. WALSH.—We object to this as irrelevant and immaterial.

(Testimony of H. W. McLaughlin.)

A. Oh, the Dodds, the Fausts, of course I cannot call them by name.

Q. You cannot remember them?

A. I cannot remember them; I know pretty much all of them.

Q. Did you know Charles Cloutier?

A. No, I don't know him.

Q. Did you know John Gilles?

A. I have seen him; I am not much acquainted with him.

Q. You have seen him? A. Yes, sir.

Q. What acquaintance did you have with him?

A. Oh, very little, I know him by sight when I see him; that is about all.

Q. What is his business?

A. I could not tell you that.

Q. I wish you would be kind enough to tell me what you know about him.

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Just a passing acquaintance; that is all I know of the man.

Q. Now, Mr. McLaughlin, just what do you mean by a passing acquaintance?

A. I just know the fellow by sight; that is about all.

Q. Don't you know what he did? A. No.

Q. Do you know where he lived?

A. No, I do not.

(Testimony of H. W. McLaughlin.)

Q. Well, now, do you know Mr. Edward D. Doney of Ovando? A. No, sir, I do not know him.

Q. Never met him?

A. Not that I know of, I may have met him, I do not recollect of ever meeting him.

Q. Nor Martha J., his wife? A. No, sir.

Q. Now, here is a fellow-citizen of yours by the name of Thomas Pelkey? A. I know Pelkey.

Q. Did you know him at the time? A. Yes.

Q. What was he doing?

A. Well, I declare, I don't know what he was doing.

Q. What was he doing then?

Mr. WALSH.—We object to all this as irrelevant and immaterial, and to all the testimony which may be given by the witness with reference to the acquaintance with these various entrymen and entrywomen.

A. I don't know his business.

Q. Tell me what you know about Thomas Pelkey?

A. I don't know much about the man. I know him and that is all, Mr. Maynard; I just know him and that is all.

Q. I am asking you about your acquaintance with him, also in the summer of 1899, spring, summer and fall?

A. I know I just know him; I am slightly acquainted with him, that is all.

Q. Did you know anything about what business he was in or anything of that kind?

A. No, sir, I don't know.

(Testimony of H. W. McLaughlin.)

Q. Had no speaking acquaintance with him?

A. No.

Q. How did you happen to know him at all?

A. Oh, just met him, knew his name was Pelkey and that was all.

Q. You were sheriff of your county, were you not?

A. I was.

Q. In what years?

A. '95 spring, to '98.

Q. Four years? A. Yes, sir.

Q. In your electioneering around the country didn't you meet some of these men? A. I met them all.

Q. Met them all?

A. Every one of them that lived in the county.

Q. Then you met Mr. B. Frank Chattin?

A. Yes, I know Frank Chattin.

Q. Do you know what business he was in?

A. There was two or three Chattins, I believe. I don't know their initials, but there was one of them there in Missoula ran a little confectionery store; another one, I believe, lived up on the Rattlesnake; I think there was two Chattins; I am not sure of that, either.

Q. Did you know a legal brother by the name of Elija W. Hoyt up there in Ovando?

A. I have heard of him; I was not much acquainted with him. Ovando is in Deer Lodge County, you know.

Q. Now, did you know a well-known family up in Ovando by the name of the Muchmores?

(Testimony of H. W. McLaughlin.)

A. I have heard of them but I was not acquainted with them.

Q. What did you hear about them?

Mr. WALSH.—We object to that as hearsay, irrelevant and immaterial.

Q. You just knew there was such a crowd up there?

A. I heard there was such a crowd up there; heard their names mentioned.

Q. Alfred F., Guy W., Oliver E., and Elizabeth A. Muchmore?

A. Just heard their names mentioned; knew they were up there.

Q. Here is a gentleman by the name of Alfred Stewart of Ovando, have you the pleasure of his acquaintance?

A. No.

Q. Don't know him at all?

A. I know of him; that is all.

Q. Know of him?

A. Know there is a Stewart lives there; that is all; I am not acquainted with him.

Q. Did you know a naturalized citizen of the United States of foreign birth by the name of Mr. Nels O. Opsata? A. No, sir.

Q. Didn't have the pleasure of his acquaintance?

A. No; I had not met him, I do not think; possibly I might have met him; I don't remember now.

Q. Do you know Belle Bryan Gilles? A. No.

Q. Don't know her at all?

(Testimony of H. W. McLaughlin.)

A. No, sir; don't know her at all.

Q. Well, then, here is a soldier by the name of Leonard Barrett of Missoula, you know him? A. No.

Q. Don't you know Leonard?

A. I may know the gentleman but not by name, might know him when I met him on the street, know his face, but I don't know the name.

Q. Well, did you know Mr. Edgar Lehman of Clearwater? A. No, sir.

Q. Then here is a charming young school teacher by the name of Lelia T. Bryan; did you know her?

A. No, sir.

Q. And then here is a Miss May Hawthorne; did you know of her at all? A. No, sir.

Q. Never heard of her? A. No, sir.

Q. A relative of Mr. Cobban's?

Mr. WALSH.—We object to that, and move to strike it out because it does not so appear in the testimony of any witness.

A. I might have heard of her.

Q. Here are a number of people by the name of Watson, did you know Harriet Watson? A. No, sir.

Q. Or Marion B. Watson?

A. Oh, I know of them; I am not acquainted with them.

Q. Do you know a fellow citizen of yours, a peddler, a crippled peddler by the name of Charles H. Moss?

A. I know a gentleman by the name of Moss.

Q. Who has a crippled arm?

(Testimony of H. W. McLaughlin.)

A. Yes, I know him; there is two.

Q. I am not talking about two. I am talking about this one; did you know him? A. Yes.

Q. You know him? A. Yes.

Q. Here is Kittie Watson—you say you don't know these Watsons? A. No; I don't know them.

Q. You said you did know this Dodd family?

A. I have seen them; just an acquaintance, that is all; just met them to know them.

Q. Cora Dodd and Edward Dodd?

(No answer.)

Q. And Dock E. Watson, did you know him?

A. I know the Jamesons.

Q. Charles B. Sperry at Clearwater? A. No.

Q. Thomas H. McConnell of Clearwater, did you know him?

A. No; I might know every one of them if I met them on the street but not know them by name.

Q. Here is Hiram Dodd, Harrison Dodd and Matilda Dodd; you say you know them?

A. I am just slightly acquainted with them; know them when I see them, know their names.

Q. Then there is Lizzie Dodd?

(No answer.)

Q. You know these Frenchmen, Vital and Levi Cyr?

A. I know both of them. I know Levi better than I know this gentleman that was on the stand. I know that gentleman—in fact, I know his name is Cyr. I did not

(Testimony of H. W. McLaughlin.)

know what his given name was until he got on the stand yesterday.

Q. Do you know a person by the name of Nellie J. Ehle of Missoula? A. I don't believe I do.

Q. Here is Jacob F. Jameson and Albert Jameson of Clearwater, you say you know the Jamesons?

A. I know one of them; I don't know his given name.

Q. Don't know his given name?

A. I think one of them is named Jim; I know their names, but I don't know their given names.

Q. Don't know these Jamesons?

A. I know them, yes; but don't know their given names.

Q. What do you know about them?

A. I know they are men that have lived there for some little time, worked around that country; that is all I know of them.

Q. Then here is Sarah Yarger; do you know her?

A. No.

Q. Of Victor? A. Don't know her.

Q. Don't know the Yargers up in Victor?

A. No, sir.

Q. You know George Dildine? A. Yes, sir.

Q. And Emma his wife? A. Yes, sir.

Q. Now, here is Matilda Eddy, do you know her?

A. No.

Q. Thomas Roll? A. No.

Q. Do you know this carpenter by the name of James W. Wheaton that lived around Missoula?

(Testimony of H. W. McLaughlin.)

A. Well, I just know him.

Q. You know Jim Wheaton, don't you?

A. I know him when I meet him, that is about all. I think I would know the gentleman if I met him on the street; no particular acquaintance.

Q. Never had occasion to meet him at all during the time you were sheriff?

A. Oh, I might; I meet lots. I have occasion to meet lots of them there.

Q. Did you have occasion to meet him?

A. No; I could not tell you.

Q. Will you swear you did not?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I will not swear I did not.

Q. Here is another, Daisy Chattin of Missoula, the wife of one of these Chattins; did you know her?

A. No; I was not acquainted with her.

Q. Here is John Saleen of Missoula, did you know him? A. No, sir.

Q. Charles C. Snyder of Missoula; did you know him?

A. I know Snyders there; yes.

Q. Did you know Charles?

A. I could not tell you whether it is Charles, John, or what his name is.

Q. Do you know anything about him? A. No.

Q. Here is Frank P. Arey of Missoula; do you know him?

A. No; I might know pretty near every one of them if

(Testimony of H. W. McLaughlin.)

I met them on the street; know where they were from, or where they lived, but to say I know them now I could not name them.

Q. Here is another citizen of Missoula; do you know a Robert Starkie?

A. Starkey—well, I know of a Starkey, yes.

Q. What does he do?

A. I could not tell you what he does.

Q. You are acquainted with Jack Murtaugh, aren't you? A. No.

Q. John Murtaugh? A. No.

Q. Not acquainted with Jack?

A. I don't think so.

Q. Do you know Harriet Bryan of Missoula?

A. No.

Q. Well, now; let me ask you a question, Mr. McLaughlin. You say you know these Jamesons and Dodds?

A. Oh, I just know of them. I am not acquainted with them, thoroughly acquainted with them. I know their names are Dodd and I would know their given names if I would meet them on the street; I could not call their initials. I know them when I meet them, that is about all.

Q. Now, let me ask you a question. These people I have named that have their residence in Missoula, your town, and others, they all deeded to Cobban?

Mr. WALSH.—We object to the statement of counsel and move to strike it out.

(Testimony of H. W. McLaughlin.)

Mr. MAYNARD.—I have been reading in the bill of complaint in this case and their deeds have been offered in evidence and it is a fact that they are the ones that did deed to Cobban the land that he afterwards conveyed to your chief, Mr. Clark.

Mr. WALSH.—We move to strike out the statement of counsel because no question has been asked a witness concerning the statement made by counsel, and because it is irrelevant and immaterial.

Q. Now, I ask you when you examined these deeds that were presented to you by Mr. Cobban, did or didn't you pay any attention whatever to the grantors in the case?

A. Certainly, I looked at every name that was on the deed, and the date of the deed.

Q. Did you make any examination or investigation as to who the grantors were? A. No, sir.

Q. You did not?

A. The deed and abstract was there; that is all I was looking for and the names and the date of the deed; that is all I was after.

Q. That is all you were looking for?

A. That is all I was after; yes, sir.

Q. You didn't know one single man named in the list that I have read to you that owned a dollar's worth of property, did you?

Mr. WALSH.—We object to that as leading and as a conclusion of counsel, not based upon the reply of the witness or of any testimony in the case.

(Testimony of H. W. McLaughlin.)

A. I didn't know what either or any of them were worth.

Q. Did you know of one man in that whole list of grantors that had any real property in Missoula with the exception of George Dildine?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. No, sir, I did not; other than the property, that his name was to the deed.

Mr. MAYNARD.—Certainly, with the exception of course of this entry.

Q. Did that fact create any suspicion in your mind afterwards as to the regularity of the proceedings?

A. Not a bit; no, sir.

Q. Why?

A. Because I had the deed and abstracts right there; that is what I was after, what amount of timber that was on the land.

Q. You made no investigation nor made no inquiry whatever as to who these grantors were or anything about them?

Mr. WALSH.—We object to that as leading and as irrelevant and immaterial.

A. No, sir.

Q. Can you give me any reason for that?

Mr. WALSH.—We object to that as calling for a conclusion of the witness.

A. No.

(Testimony of H. W. McLaughlin.)

Q. Cannot give any reason for that?

Mr. WALSH.—We object to that as a repetition, the witness having already answered.

A. I said, "No."

Q. Now, then, Mr. McLaughlin, in the numerous conversations which you had had with Mr. Cobban during that spring and summer, I ask you did you learn from him as to just how he was getting the land?

A. No, sir; I did not.

Q. Nothing was ever said to you by him in regard to the matter?

A. The only thing that was said to me is when he came with the list of lands he had for sale, that he had so much land for sale, that is all.

Q. And you made no inquiries of him as to how and under what circumstances he was buying land?

A. No, sir.

Q. And you didn't know?

A. The deed showed that, that was the best evidence for me, that is all I wanted; when I get the deeds, get the deeds signed, the deeds showed what they were.

Q. You did not know nor did not inquire as to how and what arrangements he had made with the people who sold to him?

Mr. WALSH.—We object to that as leading.

A. No, sir.

Q. And did not hear from anybody?

A. No, sir.

Q. During the entire spring, summer and fall that you

(Testimony of H. W. McLaughlin.)

were living in Missoula dealing with Cobban you did not hear from anybody, nor it did not come to you as to how he was buying this land from these poor people?

Mr. WALSH.—We object to that as leading, irrelevant and immaterial.

A. No, sir.

Q. You had no suspicion at all? A. Not a bit.

Q. If you did not know one of them that had a dollar's worth of property with the exception of George Dildine, how did you understand that they were getting this land?

Mr. WALSH.—We object to this as presupposing a statement made by the witness which has not heretofore been made by him; that is to say, that the entrymen had no property, when as a matter of fact the statement made by the witness was that he was not acquainted with the financial condition of the entrymen and did not know whether they had property or not.

A. I say, now, that I did not know whether they had one dollar or five hundred dollars; I did not know what they had.

Q. You did not know anything?

A. I did not know that, no, sir.

Q. You had lived in Missoula there for years?

A. Yes, sir.

Q. And all the facts and circumstances put together created no suspicion whatever in your mind?

A. No, sir, not a bit.

Q. Now, sir, didn't you tell me last night in conversa-

(Testimony of H. W. McLaughlin.)

tion on this very matter that you did not know and you did not want to know?

A. I did not tell you any such a thing.

Q. You did not?

A. No, sir, I repeat it, I did not tell you any such a thing, you understand that?

Q. That right there in the Helena Hotel that you did not know in regard to this matter and that you did not want to know?

A. I did not tell you any such a thing.

Q. Creating with a look and a gesture, etc., the suggestion that you did not know and did not want to know, because it would be dangerous for you?

A. Do you mean to tell me that I got up and told you that, sir?

Q. I asked you if you did not tell me that?

A. I say, no.

By the EXAMINER.—Simply answer the question.

The WITNESS.—He accuses me of saying this which—

By the EXAMINER.—Just answer the question.

Mr. BICKFORD.—He asked you the question and you answered it.

A. I told you, no, sir.

Mr. MAYNARD.—Very well, I have got your answer now.

Q. You don't know Mr. Griswold at all?

A. Oh, yes, I am acquainted with Mr. Griswold.

(Testimony of H. W. McLaughlin.)

Q. You didn't know the fact that he was working under a contract with Mr. Cobban?

A. I did not, I don't know to this day.

Q. You did not know that he had working for him a man up there in the Blackfoot?

A. That he had a man, a gentleman, that he had estimating.

Q. What was his name?

A. Well, I forget it again, I have met him there in Missoula several times.

Q. You have forgotten his name?

A. Yes, sir.

Q. But you know that he had a man estimating for him, helping him? A. Yes, sir.

Q. Wasn't it Kilbourn?

Q. E. R. Kilbourn? A. No.

Q. You are sure of that?

A. I don't know whether Kilbourn was working for Cobban or not.

Q. Do you know Kilbourn?

A. Yes, sir, well acquainted with him.

Mr. WALSH.—The question was did you know of somebody working for Griswold?

A. Oh, for Griswold. I don't know who was working for Griswold. I thought you had reference to a man who was working for Cobban.

Q. Now, the question put to you was, if you did not know there was a man working for Griswold?

A. I don't know anything about that.

(Testimony of H. W. McLaughlin.)

Q. You don't know what Griswold was doing up there?

A. No, I don't know what Griswold was doing.

Q. During that spring or summer?

A. No, sir, don't know anything about it.

Q. Never heard that there was such a man?

A. Don't know anything about it—don't know what he was doing.

Q. Don't know where Griswold was that summer?

A. Griswold was back and forth in Missoula, up to his stopping place on the Clearwater; he was back and forth during the last eight or nine years.

Q. You have no knowledge of what he was doing that summer?

Mr. WALSH.—We object to all this as leading.

A. I had no knowledge.

Q. Had no conversation with him?

A. Not a bit.

Q. Do you know a man by the name of Campbell that is working for the Blackfoot company?

A. No.

Q. Don't know any such a man?

A. I don't know him by name; I might possibly know the fellow if I met him.

Q. Do you remember the fact of your being called to Butte by Mr. Wethey in the fall of 1899, and asked a question as to whether or not you knew the charges that were made by Mr. Campbell in a letter written by him and directed to Senator Clark in which he charged that

(Testimony of H. W. McLaughlin.)

you were accepting timber that was estimated by Mr. Griswold and by Mr. Kilbourn who were working for Mr. Cobban, and that you went up there and met these charges?

Mr. BICKFORD.—We object to the question, first, because it is leading; second, because it assumes a state of fact, which have not been shown by the evidence in this case; third, because it is irrelevant, immaterial and leading.

A. No, I was not called to Butte, the letter was sent down to me at Missoula by Mr. Wethey.

Q. Didn't you go to Butte in reply to that letter?

A. No, sir.

Q. Didn't go there at all?

A. Not in reply to that letter, no, sir.

Q. Who was that letter written by, by whom?

A. It was written by a man by the name of Campbell.

Q. Now, you do recollect there was such a man?

A. Yes, sir.

Mr. BICKFORD.—You didn't know him?

A. I did not know him from the side of sole leather, I would not know him if I met him now.

Q. (Mr. MAYNARD.) The charge was made in that letter substantially as I said it to you in the preceding question? A. Yes.

Q. Well, if Mr. Griswold's name was mentioned in that letter in regard to this work, how can you say now that you did not know anything about it?

(Testimony of H. W. McLaughlin.)

Mr. BICKFORD.—We object now to the witness being cross-examined concerning the contents of this letter, and Mr. Griswold being mentioned in it, because the letter itself is the best evidence and the witness cannot be cross-examined concerning the contents of the letter, until he is first presented with the letter. Let us ascertain in the first place whether Mr. Griswold's name was actually mentioned in the letter or not.

Q. Was it or was it not?

Mr. WALSH.—We object to that because the letter itself is the best evidence.

A. Well, I could not tell you.

Q. What do you say now?

A. I say I could not tell you now whose name was in it.

Q. You would not swear but what it was?

A. Well, I can't tell you, I don't remember.

Q. Did you not afterwards meet Mr. Griswold in the Florence Hotel in Missoula and ask him if he spelled his name G-r-i-z-z-l-e? A. No, sir.

Q. Didn't you in the Florence Hotel in the fall of 1899, after you had received this letter from Campbell, or after this man Campbell had written this letter to Butte, and it had been sent down to you as you say, down to Missoula, didn't you call his attention to this letter?

Mr. BICKFORD.—That is objected to as immaterial, irrelevant, and incompetent, not tending to prove or disprove any issue in this case.

(Testimony of H. W. McLaughlin.)

A. I did not.

Q. You never spoke to him about it?

A. No, sir, I answered the letter myself and that is all there is to it.

Q. Nor never referred to Mr. Griswold, never spoke to him about this letter? A. I did not.

Q. And didn't you then and there, at that time and place that I now have called your attention to, refer to this letter to Mr. Griswold and tell him of the charges that had been made by Campbell to Senator Clark, and that the letter had been sent down to you, and that in this letter the charge was made that Mr. Griswold and Mr. Kilbourn, who was working under him, and both of them working for Cobban, were palming off poor timber and saving it for other people?

Mr. BICKFORD.—We object to that as immaterial, irrelevant, as leading, and cross-examining the witness.

A. I do not. I repeat that, that question was asked me once before.

Q. You admit, however, receiving such a letter?

Mr. BICKFORD.—We object to this because the letter itself is the best evidence as to the character of the letter.

A. I received such a letter.

Q. While admitting you received such a letter you deny imparting its contents to Mr. Griswold?

Mr. BICKFORD.—We object to this because the let-

(Testimony of H. W. McLaughlin.)

ter itself is the best evidence as to the character of the letter.

A. I do, yes, sir.

Q. Now, can you tell me if Mr. Griswold was not informed by you of the contents of this letter how he ever came to know anything about it?

A. I don't know a thing about it.

Q. Did you ever make any entries yourself under this Stone and Timber Act? A. Yes, sir.

Q. How many? A. One.

Q. Did you make it in your own name?

A. Yes, sir.

Q. How many did you ever make in anybody else's name?

Mr. BICKFORD.—We object to this as altogether immaterial and irrelevant, there being no charge in the bill of complaint of any illegal or fraudulent entry made by this witness, or any conveyance of said land to the defendant.

Mr. MAYNARD.—I will say now right here, in reply to that, that I have within the last few days discovered that there are as many, if not more entries, which the Government claims to be fraudulent that were made under this Stone and Timber Act in the interest of Mr. Cobban, and which after the land had been acquired by him were conveyed to Mr. Clark, which by oversight or mistake and without any knowledge on the part of the Government were left out of the bill of complaint, and

(Testimony of H. W. McLaughlin.)

that we propose to present to the Court a full list of the names with the descriptions and the circumstances, and ask that the bill be amended to incorporate them all, and in the event of counsel not stipulating or opposing and successfully opposing, that then the Government will commence a new case against the rest of them. During this inquiry I have got onto it every once in a while that names were omitted which led me to make an investigation, and I have satisfied myself of the existence of these facts.

A. I took stone and timber locations?

Q. Yes, sir. A. None.

Q. Under what idea did you get other people to make it for you?

Mr. BICKFORD.—We object to that as irrelevant and immaterial, presupposing that the witness now upon the witness-stand has had or caused to be made in his interest other timber entries than those he has testified to, which is altogether an assumption upon the part of counsel. I do not think it is a question that ought to be put here and the witness should be allowed to decline to answer.

EXAMINER.—You can answer it.

Mr. MAYNARD.—I am simply asking this upon information that was given to me in regard to the matter; that is all, I simply wish to have the witness go on record in his testimony, that is all I care about.

Mr. WALSH.—The witness is not to be put upon rec-

(Testimony of H. W. McLaughlin.)

ord on any question that it not relevant to the inquiry. You might just as well ask him about a great many other things in his private life. Some charges have been made against Mr. McLaughlin in a political way—why not go into that?

A. I have caused no act at all that I know of.

Mr. WALSH.—You asked him whether it was under the Stone and Timber Act—you say now not under any other act?

A. No other act other than the lieu land selections.

Q. That is with reference to a lieu land selections?

A. Selections; of course, I have selected a lot of land under that act.

Q. In other persons' names?

A. No, sir. While acting as power of attorney for other fellows.

Mr. WALSH.—That is acting under power of attorney from other parties you selected land for these other parties?

A. Yes, sir.

Q. (Mr. MAYNARD.) And in no other way?

A. In no other way, no, sir.

Cross-examination.

(By Mr. BICKFORD.)

Q. With reference to the different locations of the mills of the Western Lumber Company in 1899, I wish you would state how much timber there was which was tributary to the Clinton mill and what naturally came there to be manufactured into lumber?

(Testimony of H. W. McLaughlin.)

A. There was between eight and nine million feet.

Q. How much timber was tributary to the mill at St. Regis?

A. About the same number of feet.

Q. I will ask you to state whether any of the lumber lands or the lumber lying on the Blackfoot river were tributary to either of these two mills?

A. No, sir.

Q. Could not they by any practicable method be operated by lumber from the Blackfoot river?

A. In the mills?

Q. The mills at Clinton and the mills at St. Regis?

A. No.

Q. Then, as a matter of fact, the only timber which would be tributary to the two mills I have mentioned was the timber I have mentioned as being about nine million feet in each instance?

A. I think we could get out about eight million feet at St. Regis and about that number of feet at Clinton.

Q. In procuring title to this timber at the various mills did you ever pursue any unlawful method of obtaining title to that timber? A. I did not.

Q. I will ask you to state whether or no you paid the market price for the timber that you so procured?

A. I did.

Q. At the St. Regis mill by what means did you acquire the title to the timber that was tributary to that mill?

A. A deed from Mr. Goughnor.

(Testimony of H. W. McLaughlin.)

Q. What kind of lands were these?

A. Well, some of them was mountain land, and section 23, the biggest portion of it was on the flat.

Q. I will ask you to state whether or no section 3 was part of the ground to the Northern Pacific Railroad Company?

A. Twenty-three; yes, sir.

Q. Then title to that land was obtained by deeds from the Northern Pacific Railroad Company and part through Mr. Goughnour to the Western Lumber Company? A. Yes, sir.

Q. I will ask you to state whether or not you procured title to any other land at St. Regis and if so from whom your title was acquired?

A. Well, I got a quarter section from Joe Dowling; it was a deed from Mr. Goughnour to the Western Lumber Company, but he had deeded the land or timber to Mr. Goughnour.

Q. Now, after operating these mills, have you ever operated a mill upon any lumber that you did not purchase or any locations that you did not purchase ultimately from the people who owned it at the time of the purchase?

A. No, sir, I did not.

Q. I will ask you to state whether or not in 1899 there was any mill owned by the Western Lumber Company at Lothrop? A. No, sir.

Q. How long have you been operating the mill in the vicinity of Lothrop, either at Nine Mile or Lothrop, which is close by?

(Testimony of H. W. McLaughlin.)

A. Well, you mean by myself?

Q. Yes, you yourself individually.

A. I started in at Nine Mile in 1892.

Q. Now, with reference to the land upon the Blackfoot river, I will ask you to state, if you will, whether in the Blackfoot river country, it is a timber country generally speaking? A. Yes, sir.

Q. Are the lands in the Blackfoot country valuable for any other purpose except for the timber growing upon the land, and stone?

A. Not good for anything else. Of course, there is Cammas prairie; that is a very nice little prairie.

Q. But where the timber grows is it valuable for agricultural land? A. No, sir.

Q. Then in places where the timber grows land is not valuable for agricultural purposes?

A. No, sir.

Q. But in other places where there are prairies and open places there is some valuable agricultural land?

A. Yes, sir.

Q. As I understand you to say the land intersperses in the bottoms of the river where there is some agricultural lands, but upon the hills the land is only valuable for the timber?

A. Valuable for the timber, that is all.

Q. Now, with reference to the acquiring of title to lands from Mr. Cobban, I want you to state, if you will, Mr. McLaughlin, how it was that the proposition of buying these lands first came to you, was it in the way

(Testimony of H. W. McLaughlin.)

of Mr. Cobban's making the statement to you that he at that time owned land?

A. Certainly; he told me that he had this land for sale.

Q. And was willing to sell them?

A. Was willing to sell them, wanted to sell them.

Q. Did you ever at any time, either on behalf of yourself or of any other person, make a contract with him that you would buy from him a certain quantity of land if he got title to it? A. No.

Q. Now, I will ask you to state as to the manner of examining the title to lands, when there was a proposition made to you to sell to you the lands mentioned, any quantity of land or any land mentioned, would Mr. Cobban come to you and propose to sell you the land—did you go to Cobban first or did Cobban come to you first?

A. I went to Cobban and asked him if he had any timber land to sell.

Q. Now, when the proposition was made to you with reference to the purchase of these lands, did Mr. Cobban at that time give you a list of the land and say he owned these lands?

A. I answered that question this morning.

Q. Answer it again?

A. I said, yes, sir, he would bring a description of the land that he had to sell.

Q. Then what step would he take with reference to these lands?

(Testimony of H. W. McLaughlin.)

A. Then when I got a description of the land I would send the description to be estimated.

Q. Then what was the next step which would be taken?

A. Well, when the estimator would go over the land he would send the estimates back to me which I would receive possibly every week.

Q. In the course of your business, then, it was done in this way: Mr. Cobban would come to you with a list of land which he would say he owned; then you would take the descriptions of the land, as he had given it to you, send it to the man who did the estimating for the purpose of examining and ascertaining the amount of timber on this particular land? A. Yes, sir.

Q. Then when the report was made by the estimator, you would do what?

A. Well, he would bring the deeds and abstracts of the different bunches of timber that he had for sale, twenty million, thirty million or forty million, whatever it might be, and we would take the list and compare them with the deed and abstract.

Q. For what purpose did you make comparison with reference to the estimates?

A. Well, to see that the number of feet was there, that the estimates and the descriptions that was sent to the estimators was in the deed.

Q. Now, I will ask you to state what the condition of the land was at the time when you had these lands

(Testimony of H. W. McLaughlin.)

that you send to estimator with reference to the final proof having been made prior to that time or not?

A. Well, the deed showed that.

Q. Was there anything else that showed that?

A. The deed showed the date, of course, I had the date of these different estimates.

Q. Wasn't the final receipt there to show that final proof had been made?

A. Yes, sir, the final receipt with these papers in the case.

Q. Then it was after the time when the final receipt had been issued, that you had the land examined for the purpose of ascertaining the quantity of timber on the land? A. Yes, sir.

Q. Now, after you had examined and ascertained what the quantity of timber on the land was, what was your next step with reference to the transaction?

A. After I got through satisfying myself that the estimates and the description of the land were right, in the deed, why they were sent to you to Butte.

Q. Now, I will ask you to state if, at the time when the papers were sent to me, it is not a fact that the abstract of title, the final receipt, and the deed to Mr. Cobban were also sent at that time?

A. Every one of them, yes, sir.

Q. In the majority of cases, I believe, a deed from Mr. Cobban to Mr. Clark was sent along?

A. Yes, sir.

Q. Now, up to that time was there ever any contract

(Testimony of H. W. McLaughlin.)

between Mr. Clark and Mr. Cobban of any nature or description whatever? A. Oh, no.

Q. I will ask you to state if it is not a fact that these contracts with reference to the sale of this particular land mentioned in any particular deed, was not made after the time when the abstract of title had been examined and price agreed upon by Mr. Clark or his agent, Mr. Wethey, and Mr. Cobban?

A. Yes, sir, that is right.

Q. I will ask you to state whether, as a matter of fact, Mr. Cobban at any time or under any circumstances acted as the agent or representative of Mr. Clark in any capacity whatever?

A. He did not; no.

Q. Was there ever any contract or agreement between Mr. Clark or any agent of Mr. Clark and Mr. Cobban, that Mr. Cobban was to get these men to locate upon these lands for the purpose of ultimately deeding the land to Mr. Clark? A. Oh, no.

Q. Now, I will ask you to state, Mr. McLaughlin, if, as a matter of fact, you had anything yourself to do with any of these entrymen personally with reference to their entries?

A. I knew nothing at all about their entries, not a thing.

Q. As a matter of fact these timber lands were for the use of the Western Lumber Company, as you understood it at the time?

(Testimony of H. W. McLaughlin.)

A. Yes, sir, that was talked about at the time, that it was for the use of the Western Lumber Company.

Q. And it was the desire of the Western Lumber Company to become possessed of sufficient timber to supply these mills for operation?

A. Yes, sir, that was the object.

Q. I will ask you to state, Mr. McLaughlin, whether or not you have been in the business of buying timber lands more or less for the past eight or ten years?

A. Yes, sir.

Q. Did you ever make any inquiries as to the financial standing or worth or how much taxable property a person had who was proposing to sell you a piece of land?

A. I never did.

Q. Is it your habit to make your purchase of a piece of land depend upon the number of dollars that a man may be worth?

A. No, sir, the deed is evidence enough for me; that is all I want, the deed and the abstract.

Q. Then, as a matter of fact, in dealing with these lands you made no inquiry concerning the people who had made the entry of the land in the land office?

A. I did not.

Q. You are well acquainted with the land office at Missoula? A. I am.

Q. And with the people who are engaged in conducting its affairs? A. Yes, sir.

Q. They are men of good reputation?

A. Very good.

(Testimony of H. W. McLaughlin.)

Q. And are men who conduct the affairs of their office in a business-like way? A. Yes, sir.

Q. I will ask you to state whether or no these men are known as first-class business men?

A. That is the reputation they have got in that country everywhere.

Q. I want to ask you another question: When was it you first heard, if at all, that there was anything wrong about these land entries?

A. Why last fall—last summer, sometime.

Q. About the time of the commencement of this action?

A. Just about; that was the first time I ever heard of anything about the entries.

Q. Now, prior to that time, nobody had ever supposed, not even you who were living in Missoula, that these land entries were not made in absolute good faith just the same as entries had been made for years past in the Missoula land office?

A. Well, I was sure they were.

Q. Nothing had come to your attention which would cause you to look with suspicion upon the matter?

A. No, sir, not a bit.

Q. I understood you to say, Mr. McLaughlin, that you knew nothing about Mr. Griswold's work on the Blackfoot with reference to timber lands during this summer of 1899—you didn't know anything about that?

A. No, I did not know what he was doing; I did not know anything at all about his business.

(Testimony of H. W. McLaughlin.)

Q. Now, with reference to these deeds and the consideration that was mentioned in them, the first deed, according to the reading of the counsel for the other side, had a consideration of $7,656; would you regard that as being a fair and reasonable consideration for the land conveyed in the deed?

Mr. MAYNARD.—I object to it on the ground that it is not in any way possible for the witness to give an intelligent answer, for the reason that he has sworn already that he did not know anything about the land in the deeds.

A. Well, I will answer that in this way, that there was nothing went into them deeds unless it was checked over, as I said before, the estimates were checked over, and the estimates and the deeds and the final receipts were sent to you (Mr. Bickford), at Butte; you knew the number of feet and you knew the price that was paid.

Q. In other words, what I want to get at, Mr. McLaughlin, the deed itself recited the exact consideration that was actually paid? A. Yes, sir.

Q. Now, that is true with reference to all of these?

A. Every one of them.

Q. In figuring upon the basis of a dollar and a quarter a thousand for timber at the time and at the place where this timber was located, was that a fair and reasonable consideration for the timber?

A. Yes, sir, I figured it as very reasonable.

Q. And would be just about what you would consider a fair price for it? A. Yes, sir.

(Testimony of H. W. McLaughlin.)

Q. You have had experience for some time in purchasing timber and timber lands, I think you said?

A. Yes, sir.

Q. You were then at that time acquainted with the going price for timber in that vicinity?

A. Yes, sir.

Q. As a matter of fact, I believe you have already stated that you did not know in what way Mr. Cobban was to get title to this land, whether under the Timber and Stone Act or whether under the lieu land selection, or whether under the homestead, or whether under any other law of the United States? A. No, I did not.

Q. I will ask you to state whether, as a matter of fact, during the year 1899, there were not a great many entries made in the land office under what is known as lieu land selections, under the forest reserve law which provides for within a forest reserve?

A. Yes, sir.

Q. You, yourself, made some entries for yourself and others under that law? A. Yes, sir.

Q. Now, in your sawmill business, you were in Missoula part of the time, were you not?

A. Back and forth.

Q. At other times you would be at the mill or at one mill or the other?

A. Various places where we had business.

Q. You were generally around over the country during the time which intervened between the first day of June and the last of the year 1899?

(Testimony of H. W. McLaughlin.)

A. Yes, and be away two weeks at a time.

Q. I will ask you to state whether or no during all this time or this period, you heard any rumors or reports that anybody, particularly whether Mr. Cobban, was illegally obtaining land for the benefit of anybody? A. I did not.

Q. Now, the time when you were operating the mill on the Nine Mile, as you have testified to, you had occasion to buy timber or timber lands from people at various times, had you? A. I had.

Q. I will ask you to state under what land laws they were acquired?

A. Homestead and stone and timber.

Q. Were there not some pre-emptions among them?

A. Some pre-emptions?

Q. I will ask you to state if it is not a fact that some of the land you have acquired have come from the Northern Pacific Railroad Company?

A. Yes, sir.

Q. Some of the timber you have used in your milling operations has come from land owned by the Northern Pacific Railroad Company as well as from settlers upon the public domain? A. Yes, sir.

Q. In making these purchases you have frequently find a man who had owned the land for six or eight years, would you not? A. Yes, sir.

Q. With reference to these forest reserve selections, the scrip that you placed or the locations you made of lieu land were usually of timber land, were they not?

(Testimony of H. W. McLaughlin.)

A. They were of timber land.

Q. And it was for the purpose of obtaining title to this timber land by virtue of a compliance with the laws of the United States with reference thereto that you made these locations of timber land? A. Yes, sir.

Q. There were others engaged in the same business?

A. Yes, sir.

Q. There were others who acquired title to land in this vicinity, were there not? A. Yes, sir.

Q. Now, on the Blackfoot river, have you ever had any dealings up there with reference to timber lands except these lands which you purchased from Mr. Cobban? A. No, sir.

Q. Then there were no other transactions on your part on the Blackfoot except those that you had with Mr. Cobban? A. No, sir.

Q. And these were all for timber land?

A. Yes, sir.

Redirect Examination.

Q. (Mr. MAYNARD.) Now,, as I understand you, as a result of the whole business, you don't know anything about these entrymen or entrywomen that deeded to Cobban?

A. No, I know nothing at all about it.

Q. You did not know that they had made entries or were making them? A. No.

Q. Didn't know that such a thing was going on?

A. No, sir.

(Testimony of H. W. McLaughlin.)

Q. While you were living in Missoula there, during that spring, summer and fall it was not brought to your attention in any way by rumor or otherwise, that there was special interest being taken in making entries under the Stone and Timber Act? A. No, sir.

HENRY W. McLAUGHLIN.

Subscribed and sworn to before me this 21st day of March A. D. 1902.

HENRY N. BLAKE,
Examiner.

A. E. EHLE, being first duly sworn as a witness on behalf of the complainant, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Mr. Ehle, what is your full name?

A. Albert Edward Ehle.

Q. You are a brother in law of the witness who just left the stand, of the witness, Starkie, are you?

A. I am a brother in law of Starkie's wife; I am not sure that that makes me his brother in law.

Q. Brother in law of Starkie's wife?

A. I married his wife's sister, not his sister.

Q. Well, you two men married sisters?

A. Yes, sir.

Q. Did you come from Idaho with the party, yesterday? A. Yes, sir.

Q. And are you living there now? A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. You heard the testimony of Robert Starkie, didn't you? A. Most of it.

Q. You have been staying here in the room?

A. A greater part of the time.

Q. When did you come to Montana?

A. About fifteen or sixteen years ago.

Q. Where were you born? A. Wisconsin.

Q. Did you come directly from Wisconsin here?

A. No, sir.

Q. How long did you live in Wisconsin?

A. Twenty-odd years; I don't remember just how old I was when I left there.

Q. How old are you now?

A. I am thirty-eight.

Q. You don't know how old you were when you left Wisconsin? A. I would not be positive.

Q. Do you know where you went? A. Yes, sir.

Q. Where? A. To Minneapolis, Minnesota.

Q. How long did you stay there?

A. Six or seven years, I think.

Q. What did you do there?

A. I worked a part of the time at carpenter work, part of the time in Minneapolis Harvester Works, and part of the time in Chicago, St. Paul and Chicago Railway shops.

Q. Were you a married man then? A. No, sir.

Q. Unmarried? A. Yes, sir.

Q. When you left Minneapolis where did you go to?

A. Great Falls, Montana.

(Testimony of A. E. Ehle.)

Q. Came from Minneapolis to Great Falls?

A. Yes, sir.

Q. In what year?

A. I think it was—well, really, I don't remember what year it was.

Q. How many years ago?

A. Well, I think it was thirteen or fourteen or fifteen years ago; I have not tried to keep track of it at all; never had any occasion that I know of since I left there to figure up or keep track of the day I left and when I arrived here, consequently, I don't remember the exact number of years I have been in the west.

Q. What did you do when you first came to Great Falls? A. Worked at carpenter work.

Q. Nothing else? A. No, sir.

Q. How long did you engage in the work of carpentering at Great Falls? A. One summer.

Q. Then where did you go?

A. I went to the Bitterroot valley.

Q. To the Bitterroot valley from Great Falls, you went directly to the Bitterroot?

A. Yes, sir.

Q. Where did you locate?

A. Up near the little town of Darby.

Q. Had you married by this time? A. No, sir.

Q. What did you do when you first reached the Bitterroot?

A. Was trapping and hunting.

Q. How long did you engage in that work?

(Testimony of A. E. Ehle.)

A. That winter.

Q. Then what did you do?

A. Pulled out from there down here to Helena.

Q. That spring? A. Yes, sir.

Q. What did you do here?

A. Tar and roofing business.

Q. How long did you engage in that business?

A. For two or three years.

Q. Who did you work for, for yourself?

A. Yes, sir.

Q. You worked for two or three years in the tar and roofing business here? A. Yes, sir.

Q. Then what did you do?

A. That is not exclusively here, I went from here, had contract at White Sulphur Springs, Missoula and Great Falls.

Q. Had you married up to this time?

A. No, sir.

Q. Then where did you go?

A. Went to Milk Ranch, from here to Elliston.

Q. To the Milk Ranch?

A. Stock ranch known as the Milk Ranch.

Q. What did you do there?

A. Answer general land work, took care of the place.

Q. What do you mean—as foreman?

A. Foreman for myself.

Q. Foreman for yourself? A. Yes.

Q. Did you buy it yourself?

(Testimony of A. E. Ehle.)

A. No, sir; I took the place on shares together with other parties.

Q. Did the other man own the place?

A. No, sir.

Q. Two of you rented, did you? A. Yes, sir.

Q. For how long? A. Five years.

Q. How long a time did you stay there?

A. Stayed there a little over a year.

Q. Then what did you do?

A. I moved over to the Bitterroot valley.

Q. What did you do there then?

A. Carpenter work.

Q. Then you went back to carpentering.

A. Yes, sir.

Q. When did you marry?

A. Before I left Helena.

Q. Married a daughter of John B. Reeve?

A. Yes, sir.

Q. What is her first name? A. Nellie.

Q. Is she here in the room now?

A. Yes, sir.

Q. She went with you over to the ranch?

A. Yes, sir.

Q. And after a year of the five years you thought you would quit that work? A. Yes, sir.

Q. And then you moved over to the Bitterroot?

A. Yes, sir.

Q. Went to work at carpentering?

A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. How long did you stay there?

A. Between two and three years I think it was.

Q. What else did you do there?

A. In the Bitterroot?

Q. Yes.

A. Why, I think it was two years I was there, the town got pretty quiet in the line of carpenter work and I did some freighting.

Q. What is that? A. Hauling freight, teaming.

Q. You mean you got a team and wagon and hauled freight? A. Yes, sir.

Q. What we call in the east teamster?

A. Probably.

Q. How long did you engage in that business?

A. Oh, not more than a month or two.

Q. Then what did you do?

A. Moved to Butte City.

Q. How long did you stay there?

A. I think it was in two years and a quarter.

Q. What did you do in Butte?

A. I worked at my trade.

Q. For two years and a half?

A. For two years and a quarter, if I remember right.

Q. Then where did you go?

A. I went to the mine in back of Garnet called Top O'Deep.

Q. Where is that?

A. It is eighteen miles from Bearmouth, back in this direction (indicating).

(Testimony of A. E. Ehle.)

Q. What did you do there?

A. I took a contract from this company running two boarding houses, running the reservoir dam, putting in eight hundred cords of cordwood and the fluming; that is, myself and partner.

Q. What is your partner's name?

A. Allen Roll.

Q. How long were you engaged in that business?

A. About nine months; I think it was about nine months.

Q. Then where did you go?

A. Moved to the Bitterroot again.

Q. Back to your old place?

A. Oh, I had sold my place.

Q. Where did you go then?

A. Went to Kilburn's logging camp for the next winter.

Q. Where was that? A. It was up the Blackfoot.

Q. What did you do there?

A. I worked on the roads, and worked as handy man part of the winter in the matter of repairing sleighs and such.

Q. Worked on the roads—what do you mean by that?

A. Keeping the roads in repair for the logging sleighs.

Q. Was your wife there too?

A. She was in a place a couple of miles from camp.

Q. What is the name of that place?

A. It was an old deserted logging camp.

Q. Then where did you go?

(Testimony of A. E. Ehle.)

A. Went to a ranch up the Blackfoot then.

Q. To what?

A. Frank Nelson's ranch up the Blackfoot not far from this logging camp.

Q. What did you do there?

A. Built a large stock and hay barn for Nelson.

Q. Then what did you do?

A. Did quite a good deal of work for Nelson, worked for him the following summer after the winter in the logging camp.

Q. Then where did you go?

A. Down to Missoula.

Q. What did you do there?

A. Carpentering.

Q. How long did you live there?

A. I think a little over two years; I think it was two years and a half.

Q. You were engaged in carpentering during that time?

A. Yes, sir.

Q. Then where did you go?

A. To Idaho, Long Valley.

Q. Where you are now? A. Yes, sir.

Q. How long have you been there?

A. Since last fall.

Q. Since last fall? A. Yes, sir.

Q. What are you doing there?

A. Not much of anything; expected to get started in stock there.

Q. But you have not gotten started?

(Testimony of A. E. Ehle.)

A. Not very heavily, no, sir.

Q. Well, you took up a claim under the Stone and Timber Act in the year 1899, didn't you?

A. I am not positive as to the date; I believe it was in 1899.

Q. That is while you were engaged in the work as a carpenter in Missoula?

A. No, sir, I was up the Blackfoot at that time working for this man Nelson.

Q. You were up in the Blackfoot at the time working for who? A. Frank Nelson.

Q. What real estate did you own at that time?

A. Right at that time I didn't own anything—yes, I did; I owned a lot in Hamilton.

Q. Did you own any other real property?

A. No, sir.

Q. Do you own that lot now? A. No, sir.

Q. Did you sell it? A. I did.

Q. How much did you get for it?

A. Oh, it was one hundred and seventy-five dollars.

Q. What personal property did you own at that time, when you were working for this man?

A. Team, horse and buggy and some household furniture; a double harness and wagon.

Q. And your wife, was she living up there with you?

A. Yes, sir.

Q. It seems that you filed this statement on the 18th of September, 1899?

A. About that time, I believe.

(Testimony of A. E. Ehle.)

Q. Had your wife filed before that time?

A. No, sir.

Q. When did she file?

A. She filed the same day.

Q. That you did?

A. Yes, sir; not on the claim that she proved up on; that was still later on.

Q. How much later was it that she filed on the claim that she had proved up on?

A. I think it was some time in the following December.

Q. Well, now, this was along in the fall of that year 1899; had you seen your father in law, Mr. Reeve, about this time? A. About which time?

Q. About the time of your filing?

A. At the time of my filing?

Q. Yes.

A. Why I saw him quite often; I presume I did.

Q. Where was he living at the time?

A. Why, he was—I think, he was—I think he had recently moved up into what is called Dead Man's Gulch, eight miles from Missoula.

Q. Dead Man's Gulch, eight miles from Missoula?

A. Yes, sir.

Q. In which direction? A. South.

Q. How long previous to this day of your filing, the 18th of September, had he made this removal?

A. Why, it was very shortly, if before at all. I would not be positive whether it was just at that time when we

(Testimony of A. E. Ehle.)

went up there or not, but about that time he moved up there.

Q. Where had he lived before that?

A. He lived in Missoula directly before this removal to Dead Man's Gulch.

Q. How long had he lived in Missoula just previous to his going to Dead Man's Gulch?

A. Really I could not say.

Q. A number of years? A. No, sir.

Q. A year?

A. I think probably he did, but I would not be positive of that; I did not live in Missoula at that time at all.

Q. How far was this man's place you were working on from Dead Man's Gulch?

A. It was just about thirty miles; they call it twenty-two miles from where I was working to Missoula, and they call it eight miles from Missoula out to Dead Man's Gulch.

Q. Then with reference to the place where you were working, how far was that from Clearwater?

A. I should think it was thirty-five miles from Clearwater.

Q. Between Bonner and Clearwater?

A. Yes, sir, where I was working.

Q. You would go from Missoula to Bonner and from Bonner—

A. Right past the place where I was working.

Q. To the Clearwater? A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. Do you say that you are unable to state as to just when you had seen your father in law?

A. Why, I had seen him several times; I could not tell you the dates; I presume I saw him that very day.

Q. That you filed? A. Yes, sir.

Q. Who did you get the information from that led you to file?

A. Why, there was a great deal of movement in the line of timber locations all that summer and at one time I quit my contract in the Clearwater country for the purpose of apprehending timber land to locate and file on them and the papers were full of notices of timber filings, etc., and I just decided if I ever availed myself of the right I had to locate a timber claim, that I would have to do it soon, so I set about looking up a location to file on.

Q. Well, what did you do in this work you all set about it; what did you do?

A. I hitched up the horse and buggy, the wife and I, inquiring, looking over timber land; went clear up to the Clearwater; went up on Owl Creek and Placid Lake, into the country where they were specially locating, where I had seen notices of filing having been made.

Q. You and your wife went along together?

A. Yes, sir.

Q. Just hitched up your horses and went?

A. Hitched up the horses, throwed a tent into the back part of the buggy and struck out; was there several days, probably four or five days or a week.

(Testimony of A. E. Ehle.)

Q. Was it at that time you made your location?

A. No, sir, I did not decide on anything at that time on that trip at all.

Q. Well, that trip was in vain? A. It was.

Q. Didn't you find some good locations?

A. I found nothing that I could get information upon that was vacant, nothing desirable that I could learn positively that was vacant.

Q. Do you remember anybody that you saw on that trip that you can name? A. Yes, sir.

Q. Who did you see?

A. I saw Johnnie Oleson, a man that had filed on Owl Creek, a tributary from Placid Lake, and a man by the name of Peterson that had filed up there also; these were also neighbors of the man that I was working for, and it was through their information that I got from them that I went in there; they had filed on them; they were up there building up their cabins, or for some purpose they were there, and I went up into their locality. Oh, I saw a great many people on that trip.

Q. But you were unable to find any desirable timber?

A. Yes, sir.

Q. So it was a failure so far as that is concerned?

A. It was.

Q. Well, when did you go up again?

A. I went up again when Mr. Reeve and his wife and Mr. Starkie and his wife went up for the purpose of looking at lands for their wives.

Q. That was the next time that you went up?

(Testimony of A. E. Ehle.)

A. Yes, sir.

Q. Where were you living then?

A. Frank Nelson's.

Q. Just at the same place? A. Yes, sir.

Q. Where did the party meet you?

A. They came up there and stayed all night with me on their way up.

Q. And you went along with them? A. Yes, sir.

Q. And your wife? A. Yes, sir.

Q. Did you know that they were coming?

A. I did not.

Q. Did you know that they had any plan or purpose of making locations?

A. I did not. I did not know that they had anything of the kind in their heads in the matter of locating timber lands for themselves.

Q. You did not expect them?

A. No, I did not; no, sir.

Q. Where did they stay that night?

A. They stayed with me.

Q. Then what did you do—did you start next morning with the party? A. Really I have forgotten.

Q. You and your wife hitched up your buggy again?

A. No, sir.

Q. Did you go with them? A. Yes, sir.

Q. All six of you in one? A. Yes, sir.

Q. Where did you go?

A. We went up, I think it was about Nine Mile Prairie the first day's drive.

(Testimony of A. E. Ehle.)

Q. The first day's drive was to Nine Mile Prairie?

A. Yes, sir.

Q. And you stayed there over night?

A. Yes, sir.

Q. Then where did you go?

A. Went up into the mountains.

Q. And made your location?

A. Yes, sir, selections.

Q. Then when did you return?

A. It was on the second or third day, down to my place again. I forget whether it was the second or third day.

Q. What is your best recollection of it; you say you came up to the Prairie and stayed there over night?

A. Yes, sir.

Q. Then you went up the next morning into the mountains? A. Yes, sir.

Q. Do you remember where you spent that night?

A. Yes, sir, we spent it up on top of the hill in the timber.

Q. Then, do you remember where you spent the next night?

A. I think it was down on Nine Mile Prairie.

Q. On your return home? A. Yes, sir.

Q. And within that time the locations were made?

A. Selections were made.

Q. Do you know how many selections were made?

A. I think there was four.

Q. Whose were they?

(Testimony of A. E. Ehle.)

A. My wife's and mine, and Mrs. Starkie, and Mrs. Reeve.

Q. And your father in law, John B. Reeve, and your brother in law, Mr. Starkie, were along?

A. Yes, sir.

Q. But they had made their locations?

A. They had made their locations sometime before that.

Q. Then, did you, after you left the prairie and started back again, state as to whether or not you went right on with your work?

A. Stopped off at my place again, I think, the next night; went into Missoula the next day.

Q. You went on with them, you and your wife?

A. Yes, sir; that time we took our horse and buggy there back down to Missoula.

Q. Because you wanted to get back?

A. Yes, sir.

Q. And on that day, did you file the day after you got to Missoula?

A. The day we arrived in Missoula, I think, I filed on the claim.

Q. You and your wife? A. Yes, sir.

Q. Well, when you came up to the mountains, did you see Albert Jameson? A. Yes, sir.

Q. Had you known him before? A. Never.

Q. Never had seen him before?

A. No, sir, not to my knowledge.

(Testimony of A. E. Ehle.)

Q. Never had seen him before? And he went with you and made the location, did he?

A. He went through the timber with us, yes, sir.

Thereupon, further hearing was continued until Saturday, March 22d, 1902, at ten A. M.

Saturday, March 22d, 1902, Ten A. M.

Hearing resumed pursuant to adjournment.

The witness, ALBERT EHLE, was called to stand for further examination.

Direct Examination.

(By Mr. MAYNARD.)

Q. Mr. Ehle, since the adjournment, yesterday afternoon, how much of the time have you spent with Mr. Cobban? A. I wasn't aware of any.

Q. What is that?

A. I wasn't aware of spending any time with him.

Q. Haven't spent any time with him at all?

A. No, sir.

Q. You haven't had any conversation with him?

A. Oh, I believe I met him on the street and passed a word or two with him

Q. What is that?

A. I have met him on the street and spoke to him.

Q. Who was with you?

A. I believe my wife was with me.

Q. Your wife was with you, you say?

A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. Anyone else?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. No, one.

Q. Did you meet him anywhere else?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and has nothing whatever to do with the issues in this case.

Q. No other place?

By Mr. BICKFORD.—We object to that also for the reason that it is irrelevant and immaterial, and does not prove, or tend to prove any issue in this case.

A. No, sir.

Q. Did you go to Mr. Walsh's office?

By Mr. WALSH.—We object to that also because it is irrelevant and immaterial.

A. I did not.

Q. You think not?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial, and has already been answered by the witness.

A. I did not.

Q. Did you have any conversation with either Mr. Walsh or Judge Bickford? A. I have not.

Q. I show you, Mr. Ehle, your sworn statement signed by you, the 18th of September, 1899. (Counsel hands witness paper.) Is that your signature?

A. I believe it is.

(Testimony of A. E. Ehle.)

Q. I read from the statement signed by the witness, in part, as follows: "Land office at Missoula, Montana, September 18th, 1899. I, Albert Ehle of Potomac, county of Missoula, State of Montana, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled 'An act for the sale of timber lands,' etc., for the purchase of the northwest quarter of section 32, township 15 north, of range 16 west, in the district of lands subject to sale at Missoula, Montana." Do you know in whose handwriting these blanks are filled out?

A. I cannot say that I do. I believe it was filled out at the land office.

Q. Do you remember the fact of your making out such a statement? A. Why, certainly.

Q. What?

A. I remember of going to file on a piece of land, and swearing to the fact that I wished to do so.

Q. Did you say that you thought it was made out in the land office? A. I do.

Q. Why do you—what is the basis of that notion?

By Mr. WALSH.—We object to that as calling for a conclusion of the witness, and not for a statement of fact.

A. Why, I have no recollection of its ever being done anywhere else.

Q. Have you any recollection of being present at the time that it was filled out?

(Testimony of A. E. Ehle.)

A. Why, I was surely at the land office at the time I made my application.

Q. What is that?

A. Why, I was surely at the land office when I made my application, and there was writing done there.

Q. Who were with you? A. My wife.

Q. Who else?

A. Why, I disremember, whether there was anyone else with me or not.

Q. Where were the other members of your party?

A. Well, that I couldn't say. They might have been with us for all I know. Now, as far as the members of our party were concerned, why, we were not members of one family, and haven't been since that I know of. We didn't live together nor stop together usually.

Q. I refer to the party, as you know, that you went with up into the mountains, and that you came back with.

A. Yes, but when I came back, they went to their homes, and I went down to the hotel. Whether they came with us to the land office or not, I wouldn't be positive now.

Q. Can you remember of having made, at the time, at the land office—can you remember of anything you did there other than to sign your name to a paper?

A. Yes, sir.

Q. What?

A. Well, I answered several questions, and so on, put to me at the land office in regard to the claim, etc.

(Testimony of A. E. Ehle.)

Q. What questions were put to you at the land office at the time that you filed?

A. In regard to the land, and whether it was more valuable for timber or not, etc. The nature and quality of the land, and its contents, something to that effect.

Q. Mr. Ehle, you are evidently mistaken as to the dates? A. Very well; possibly I am.

Q. I am not asking you in regard to the time of making your final proof; I am asking you, and have asked you right along with regard to the circumstances of your filing this original statement. You know there is a distinction between the two, do you not?

A. I do, yes, sir.

Q. Now, then, if you have that in mind, I ask you in regard to what you can remember that occurred at the time that you filed this statement, the signature to which bears your name, and which you recognize as having written.

A. I don't remember anything in particular.

Q. Now, then, calling your attention at that time, and to this statement, can you now recognize the difference in the two dates that I have called your attention, to see who filled those blanks out?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and that the witness has already answered the same.

A. I cannot say that I do.

Q. But can you remember who was with you now?

(Testimony of A. E. Ehle.)

Now, calling your attention not to the time of your making your final proof, but to the time of your filing this statement?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial and the witness has already answered the question.

A. I cannot remember who was in the land office at the time, further than I really believe my wife was there.

Q. And as to the other members of the party, were they there, can you say as to that?

A. No, I don't remember, because I am not positive whether they were in the land office at the time or not.

Q. Well, with reference to your return from the mountain, and arrival at Missoula, can you say how long a time elapsed before you went to the land office?

A. Why, I think it was the next day after arriving in Missoula.

Q. Had you seen Mr. Cobban or Mr. Catlin up to this time?

A. Not that I remember of.

Q. Do you remember of going to Mr. Cobban's office before going to the land office to file?

A. I don't think I did.

Q. You don't think you did?

A. No, I don't think I did.

Q. Well, will you say that you did not?

A. I won't say that I did or did not.

(Testimony of A. E. Ehle.)

Q. You swear that you have no recollection now whether you went to Mr. Cobban's office or not?

By Mr. WALSH.—We object to that upon the ground that the question has already been answered by the witness.

A. I have no recollection of it.

Q. And you have no recollection as to who filled out this statement.

By Mr. BICKFORD.—We object to the question for the reason that it is leading, and that it has already been answered by the witness.

A. I do not recollect.

Q. What? A. I do not.

Q. You don't know whether it was filled out in the land office or not, do you?

By Mr. WALSH.—We object to that as leading.

A. I wouldn't swear to it. It isn't in my handwriting, and wouldn't swear to it.

Q. Or whether it was done in Cobban's office, or in the land office?

By Mr. WALSH.—We object to that as being leading.

A. Well, I have no reason to believe that it was done in Cobban's office.

Q. Well, have you any reason to believe it was done in the land office?

By Mr. BICKFORD.—We object to that for the reason that it is leading, and further that it is irrelevant and

(Testimony of A. E. Ehle.)

immaterial, and does not prove, or tend to prove, any of the issues in this case.

A. I suppose it was done in the land office.

Q. Do you know anything about it?

A. I know that it is filled.

Q. You know that it is filled? A. Yes, sir.

Q. And other than the fact that it is filled, and your name appears there, have you any recollection as to how it was made, and where, and when?

By Mr. WALSH.—We object to that upon the ground that it is leading. It is also irrelevant and immaterial and has already been answered by the witness.

A. I have stated several times that I have not.

Q. Do you know how this description appeared in this statement?

A. I don't know as I exactly understand what you mean by how it appears in the statement?

Q. What is that?

A. I don't know—I don't exactly understand what you mean by how it appears in that statement.

Q. Try and answer it, and see whether you understand it or not?

By Mr. WALSH.—We object to the remark of counsel and move to strike it from the record.

By the EXAMINER.—Yes, just put questions?

Q. Well, what is it?

A. Possibly, I might ask you whether you mean if

(Testimony of A. E. Ehle.)

I remember the description perhaps, or the numbers. Is that what you mean?

Q. No, I asked you how those descriptive numbers got into that statement?

A. Well, you didn't ask me that, you asked me how it appeared there. (Question repeated by the stenographer to the witness.)

By Mr. MAYNARD.—Can you answer that question?

A. The numbers that I offered to file on?

Q. Yes, where did you get the numbers?

A. Up in the timber there.

Q. Who gave them to you?

A. We went through the timber and checked them off the trees, the survey numbers was on the trees.

Q. Just tell us how you did that?

A. We followed the survey lines.

Q. Who is we?

A. Why, our party, because as I stated yesterday, Albert Jemison went with us, and as we would come to the section corners, the sections were marked there, showing what corner it was and what section it was. Those we understood told that.

Q. What is that?

A. Anyone that understands that can tell that they are surveyor's corners on the trees—can read it.

Q. Well, go on?

A. Well, we looked through the timber until we

(Testimony of A. E. Ehle.)

found what we wanted, and we took the numbers. That is all there is to it.

Q. Who took them? A. I did.

Q. Did you do this work yourselves?

A. Which work?

Q. Of selecting this location and writing out the exact description which you gave to the land office?

A. I didn't do it exclusively alone. There was a party out there together.

Q. Was there anybody there that could assist you except Albert Jemison?

A. My father in law and my brother in law was with me. They had been in the timber more or less themselves.

Q. Did you carry the description in your head?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial.

A. Not very long.

Q. What is that? A. Not very long.

Q. Not very long. How did you carry the description?

A. It was taken down on a piece of paper.

Q. And that was done in each of the cases?

A. I believe so.

Q. Can you state the names of any other persons that were up there, except your party and Albert Jemison?

By Mr. BICKFORD.—We object to that upon the

(Testimony of A. E. Ehle.)

ground that it is irrelevant and immaterial, and does not prove, or tend to prove any of the issues in this case, and further that it is leading.

Q. Can you state the names of the parties that were with you in this work?

A. There were no others.

Q. No other persons?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial and leading.

A. No, sir.

Q. Did you see Mr. Griswold up there?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial and leading.

A. I do not. He positively wasn't there.

Q. He positively wasn't there?

A. No, sir, he was not.

Q. Well, you knew him at the time, did you not?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. I did not.

Q. Didn't know him at the time?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. No, sir, I did not.

Q. Well, when did you make his acquaintance?

A. After we got down to Missoula, after we were living in Missoula.

(Testimony of A. E. Ehle.)

Q. How long before the time that you made your filing? A. I couldn't say.

Q. Well, how long, give us your best recollection about it?

By Mr. WALSH.—We object to that also upon the ground that it is irrelevant and immaterial.

A. I wouldn't attempt to say.

Q. You wouldn't attempt to say?

By Mr. WALSH.—We object to that as irrelevant and immaterial. We also object to counsel repeating the testimony of the witness.

A. No, sir.

Q. How long after filing on this description was it that you made the acquaintance of Mr. Griswold?

A. I don't remember.

Q. You had heard of him before?

By Mr. WALSH.—We object to that as irrelevant and immaterial. We also object to counsel repeating the testimony of the witness.

A. I had heard of him for years.

Q. But have never known him personally?

By Mr. WALSH.—We object to that as irrelevant and immaterial. We also object to counsel repeating the testimony of the witness.

Q. Can you remember the circumstance of your being introduced to him? A. I can't.

Q. You don't know where you were?

A. No, sir, I think it was on the streets of Missoula.

(Testimony of A. E. Ehle.)

I think he was introduced to me by my father in law, but I wouldn't be positive as to that.

Q. How many times did you see him after that?

By Mr. WALSH.—We object to that for the reason that it is leading, and also that it is irrelevant and immaterial.

A. Saw him a thousand times, probably.

Q. You don't mean that, do you? A thousand times?

By Mr. WALSH.—We object to the repetition of the testimony by counsel, and we ask that it be stricken from the record, and we further object and request that we be allowed time to interpose objections between the propounding of the questions by counsel.

A. Why, I don't know how many, but I would say I saw him a thousand times.

Q. Well, where were you along in the fall of 1899—were you living in Missoula? A. Yes, sir.

Q. And living in Missoula, as you were, and Mr. Griswold living where he did, would you be likely to see him a thousand times?

By Mr. BICKFORD.—We object to that upon the ground that it is leading, and upon the further ground that it is irrelevart and immaterial and an attempt on the part of counsel to cross-examine his own witness.

A. I was around the city of Missoula, and he met me several times a day on the sidewalk when I wasn't at work.

(Testimony of A. E. Ehle.)

Q. Well, did your wife file at this same time that you did? A. I believe she did.

Q. Where was her location?

A. I think that it was adjoining mine.

Q. What is that?

A. I think my wife's claim was adjoining mine.

Q. Do you remember who filled out her statement?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and does not prove, or tend to prove any material issue raised by the pleadings in this case.

A. No, sir, I could not say.

Q. Can you remember of doing anything—in regard to this matter, between the time that you filed your statement, and the time you proved up on your claim?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. No, sir—do I remember of doing anything?

Q. In connection with the matter, yes, sir.

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and has no bearing upon any of the issues in this case.

A. Why, I looked around somewhat with a view to ascertaining where there was markets for timber lands.

Q. Between the time of your filing, and the time of your proving up? A. Yes, sir.

Q. And before you paid your money into the land office? A. For filing proof.

(Testimony of A. E. Ehle.)

Q. For what purpose did you look around, Mr. Ehle?

A. Oh, just to satisfy myself as to the state—what the conditions were in the market in town.

Q. Well, was that—for what purpose did you do that? A. Just for the satisfaction of myself.

Q. Who did you see? A. I saw Mr. Tottman.

Q. You saw Mr. who?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial.

A. Mr. Tottman.

Q. Who is Mr. Tottman?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial.

A. He is superintendent, I believe, for the Blackfoot Milling Company.

Q. When did you see him?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial.

A. I couldn't remember the dates.

Q. Where did you see him?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and has no bearing upon the issues in this case.

A. I saw him at Bonner.

Q. Who was with you when you saw him?

By Mr. BICKFORD.—We object to that also for the reason that it is irrelevant and immaterial, and has no bearing on the issues in this case.

(Testimony of A. E. Ehle.)

A. My wife drove up there with me.

Q. Your wife drove up there with you?

A. Yes, sir.

Q. And did you see him?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and for the additional reason that the witness has already answered the question.

A. Yes, sir.

Q. Where did you see him?

A. At the Marguerite Hotel in Bonner.

Q. At the Marguerite?

A. I think that is the name of it, yes.

Q. At the Marguerite Hotel in Bonner you and your wife saw Mr. Teeple?

By Mr. BICKFORD.—We object to that upon the ground that it is leading, and irrelevant and immaterial, and for the further reason that the witness has already answered the question.

A. Mr. Tottman—my wife stayed in the buggy while I went in to see him.

Q. Who else was with you?

By Mr. BICKFORD.—We object to that upon the ground that it is leading and irrelevant and immaterial, and for the further reason that the witness has already answered the question.

A. My kid.

Q. Your child? A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. Now, fix the time as near as you can, Mr. Ehle.

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial and the question has already been answered by the witness.

A. I wouldn't attempt to fix the time at all because I took no pains to remember the dates, or anything of that kind.

Q. Well, you filed on the 18th of September, 1899, you have fixed that time pretty well. Now, was it before or after the 18th of September?

A. Oh, it was after.

Q. Well, can you fix it any more definitely than that it was after the 18th of September?

By Mr. WALSH.—We object to that for the reason that the question has already been answered by the witness fully.

A. Not with any correct accuracy, no, sir.

Q. Your final proof was made on the 25th day of November, 1899, in Missoula. Your final proof was made on the 25th day of November, and your statement was made on the 18th of September?

By Mr. WALSH.—We now move to strike out the statement of counsel as not being a question, or the testimony of any witness.

Q. Now, tell me whether you are able to state whether it was between those dates or not?

A. I have already told you that.

Q. What is that?

(Testimony of A. E. Ehle.)

A. That it was between the two dates.

Q. It was between the two dates, the date when you filed your statement, and the date when you finally proved up, and the dates you don't know?

A. No, sir.

Q. Whether it was in September, or October, or November?

By Mr. WALSH.—We object to that as leading.

A. I believe it was—must have been in November, if the proof was on the 25th of November.

Q. Why, why do you say that?

A. Well, I don't know that there is any special reason for saying it, only it was some time after the filing.

Q. You are just guessing at the dates, are you?

A. Well, I told you all the while that I wasn't positive of the dates at all.

Q. Will you please tell me how it was that you happened to go to Bonner to see Mr. Totman?

A. Well, my wife and I drove around in the buggy, and we often took such trips and on one occasion we drove over the Bonner road, and I remarked about it, and said that I believed I would run in and see Mr. Totman and see whether he was doing anything in the way of purchasing timber land up in that country, provided he had the proper opportunity. Then I drove up in front of the hotel and I called on the gentleman.

Q. Did you know him before this time?

A. No, sir, I did not.

Q. Did he know you?

(Testimony of A. E. Ehle.)

A. No, sir, at least I didn't know him personally. I knew him by reputation.

Q. And he didn't know you? A. No, sir.

Q. Well, did you see him at the hotel? A. I did.

Q. How did you happen to meet him at the hotel?

A. I inquired for him.

Q. And you ascertained that he was at the hotel. Now, just tell me what time, please, it was, when you were there, and what took place between you there?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not prove or tend to prove any of the issues in this case.

A. Why, there was very little took place. I asked him if they were buying timber land at that time up in such and such localities. He said he was very busy at the time and referred me to Mr. Vogel. That is about all that transpired between Mr. Totman and I.

Q. Well, did you see Mr. Vogel? A. I did.

Q. Where was he? A. I saw him in Missoula.

Q. You saw him in Missoula? A. Yes, sir.

Q. How long was it after this meeting with Mr. Totman? A. Oh, it was shortly after.

Q. Well, how long after?

A. Well, I won't place those dates. It might have been a day or two, and it might have been a week.

Q. What was Mr. Vogel's position at the time?

A. Why, I cannot say exactly, but he was also connected with the Blackfoot Milling Company.

Q. Had you ever met Mr. Vogel before?

(Testimony of A. E. Ehle.)

A. No, sir.

Q. Did he know you? A. No, sir.

Q. Where did you meet him?

A. Met him on the street in Missoula.

Q. You met him on the street in Missoula?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and the question has already been once fully answered.

A. Yes, sir.

Q. Who was with you?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. I don't believe anyone was with me to the best of my recollection.

Q. Who was with him at that time?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. I believe his wife was with him.

Q. Did you know who she was?

By Mr. BICKFORD.—We object to that also for the reason that it is irrelevant and immaterial.

A. I don't know. I am quite positive, though, there was a lady with him.

Q. Where was he? What was he doing on the street?

A. I believe he was leading a bicycle.

Q. Leading a bicycle?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial.

(Testimony of A. E. Ehle.)

A. Yes, sir.

Q. His wife was leading a bicycle along, too?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial.

A. She had one along.

Q. Was she leading hers?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial and has nothing whatever to do with the issues in this case.

A. Yes, sir.

Q. Did you know her?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial.

A. No, sir.

Q. What did you say to Mr. Vogel at that time?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not prove, or tend to prove any issue in this case, and further that it is hearsay.

A. Why, I asked him if his name was Vogel after he was pointed out to me.

Q. Who pointed him out to you?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not prove, or tend to prove any issue in this case.

A. I don't remember, now, who it was.

Q. Then he said his name was Vogel, and then what occurred?

(Testimony of A. E. Ehle.)

By Mr. BICKFORD.—We also object to that for the reason that it is irrelevant and immaterial.

A. I approached him on the timber question.

Q. Well, what did you say to him?

By Mr. BICKFORD.—We object to that upon the ground that it is hearsay and has nothing to do with any of the issues raised in this case.

A. I haven't a copy of it. I don't remember all the words that transpired, but the effect was as to whether they were desirous of acquiring timber lands in certain localities up in the Blackfoot country.

Q. And he said he wasn't, I suppose?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial and hearsay, and further that it is leading.

A. Well, he made considerable inquiry about it, and the substance of his answer was that they hadn't anything in that locality at he present time, and unless they had opportunities to get quite a body there together, they wouldn't wish to build roads, etc., in there for any small amount.

Q. Well, who else did you see besides Mr. Vogel?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial and hearsay, and leading.

A. I am not sure that I spoke to anyone in regard to it.

Q. Now, we come to the day of your filing. Do you know who your witnesses were on that day?

(Testimony of A. E. Ehle.)

By Mr. WALSH.—We object to that because upon the date of the filing we would not have to have any witnesses present.

Q. I mean to come down to the date of the filing—making the final proof. Who were with you on that day?

By Mr. WALSH.—We object to that upon the ground that it was not necessary to have any witnesses upon the date of the filing, and it is therefore irrelevant and immaterial.

A. On the date of the final proof, you mean.

Q. Yes, sir.

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial and the witness has a right to be shown the papers used in making his final proof, from which to refresh his memory.

A. Why, I am not sure whether my wife went up town with me that day or not. I believe Mr. Reeve was one of my witnesses, and I think Mr. Griswold, but I wouldn't be positive whether he were or not.

Q. Mr. Griswold was one of your witnesses?

A. I think Mr. Griswold was one of the witnesses.

By Mr. BICKFORD.—At this time I desire to notify the witness that he has the right to have access to the files used in the land office upon his final proof to refresh his memory as to who his witnesses were.

Q. Did you say Mr. Griswold was one of your witnesses?

(Testimony of A. E. Ehle.)

By the EXAMINER.—You can look at the original papers if you wish to.

A. I am not sure whether he was one of the witnesses or not.

Q. How would you suspect that Mr. Griswold was one of your witnesses when you have sworn that he wasn't up there at all at the time you made your location, and you didn't know him at all? How did you come to name him as a witness on the day that you filed?

By Mr. WALSH.—We object to that for the reason that it is leading, and calls for a suspicion of the witness, and not a statement of any fact, and it is therefore irrelevant and immaterial.

A. The requirements that I should be ready with—should have four witnesses—should name four witnesses, and they were Mr. Jemison and Mr. Reeve and Mr. Starkie. They accompanied me up there, and there was something remarked to the effect as to who the fourth witness should be; and if his name was on there I say I am positive that it was put on if it was upon the suggestion of Albert Jemison; that he was familiar with the land up in that locality—that Mr. Griswold was, and if his name was on, it was put on at the suggestion of Mr. Jemison, for the reason that Mr. Griswold was familiar with these lands, and the nature of them, and so on, and as I understand it the witnesses were for the purpose of testifying as to the nature of the land, etc.

Q. That was the way in the published notice. The witnesses were named as Robert Starkie of Missoula, John

(Testimony of A. E. Ehle.)

B. Reeve of Missoula, Montana, C. L. Griswold of Clearwater, Montana, and Albert Jemison of Clearwater.

By Mr. BICKFORD.—We object to that upon the ground that it is leading, and is a repetition of the testimony already given by the witness.

A. That is as near as I can remember.

Q. Then you named as a witness a man that you never heard of?

By Mr. BICKFORD.—We object to that—

Q. And that is the reason?

By the EXAMINER.—Wait a moment. He hasn't got in his objection yet.

Mr. BICKFORD (Continuing).—That it is immaterial and irrelevant, and an attempt upon the part of counsel to cross-examine his own witness.

Q. —that you named as a witness a man that you had never seen simply because Albert Jemison told you he was a competent witness?

By Mr. BICKFORD.—We object to that for the reason that it is the argument of counsel, and not the testimony of the witness, and not calling for a fact, and trying to induce the witness to testify to the same as it is construed by the counsel.

A. I stated some time ago that I did not know him by reputation, but as a form of filling out the four names, his name was put in there, having been told that he was familiar with that section of the country, and I had good reason to believe that if I saw fit I could make his ac-

(Testimony of A. E. Ehle.)

quaintance at any time because I knew by general hearsay where he was all the while. He had a stopping place up here in the Clearwater country and I knew him by general reputation for some time.

Q. Well, on the date that you—did you make your final proof on the date that you expected to?

A. I believe not—I am not sure whether I did or not.

Q. Well, you had your money to pay for your land, did you not?

By Mr. WALSH.—We object to that as leading.

A. I had it arranged for.

Q. You had it arranged for? A. Yes, sir.

Q. Who had you seen?

A. Why, at the time I made the filing I expected to use my own money, but after moving down to Missoula I invested that in a home, believing that I could get it elsewhere. I used that which I expected to use for final proof, and made arrangements to borrow the required amount from Mr. Cobban.

Q. Did you do that in person?

Mr. BICKFORD.—We object to that as leading.

A. Why, I think that Mr. Reeve suggested that if I wanted to buy this certain home, why he was satisfied that I could borrow the money and I am not sure but what he spoke to Mr. Cobban about the matter, and I also spoke to him myself.

Q. When did you buy your home in Missoula?

A. Shortly after moving down there.

Q. When did you move down there?

(Testimony of A. E. Ehle.)

A. I think it was the last part of October.

Q. The last part of October?

A. Yes, sir, I think so.

Q. Of what year?

A. Of—well, this same fall, I think.

Q. The fall of 1899? A. 1899, yes, sir.

Q. The last part of October, 1899, you think?

A. Yes, sir.

Q. From whom did you buy your house?

A. From Charles Beemer.

Q. How much did you pay for it?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial, and has absolutely nothing to do with the issues in this case.

A. Why, the purchase price of the property itself was $275.00, besides some improvements that I—

Q. What is that?

A. The purchase price of the house and lot itself, the first cost from Beemer, I think, was $275.00, besides some improvements that I put on it right away.

Q. That deed was recorded, wasn't it?

A. Yes, sir.

Q. You paid for it in cash, did you? A. I did.

Q. What is that?

A. Well, not wholly. I traded him a team for a part of that which I had partially made arrangements to sell to Mr. McLaughlin for a long time.

Q. How much is your team worth?

(Testimony of A. E. Ehle.)

A. Mr. McLaughlin was to pay me $150.00 for the naked team.

Q. Instead of selling to Mr. McLaughlin, you turned it into this deal?

A. I had first talked with Mr. McLaughlin, and had got an offer from him, and I was ready to take the first proposition, and on the very day that we made the deal between he and Mr. Beeman, Mr. McLaughlin decided to take the team, but I turned the team over to Mr. Beemer, instead of selling it to Mr. McLaughlin.

Q. What else did you give him? A. Cash.

Q. I mean besides the naked team.

A. Harness and wagon.

Q. Nothing else? A. No—and cash.

Q. That is, the team of horses, the harness, and wagon, and the rest in cash? A. Yes, sir.

Q. Where did you see Cobban?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. Why, I saw him at his office.

Q. When?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. I don't remember the dates.

Q. What is that?

A. I don't remember the dates.

Q. Well, how long before you proved up?

By Mr. BICKFORD.—We object to that upon the

(Testimony of A. E. Ehle.)

ground that it is irrelevant and immaterial, and does not prove, or tend to prove, any issue in this case.

A. Why, I think it was probably three or four weeks.

Q. Three or four weeks?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and does not prove, or tend to prove, any issue in this case.

A. Yes, sir.

Q. Who was with you?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and does not prove, or tend to prove, any issue in this case.

A. Why, I think Mr. Reeve introduced me to him.

Q. What did you do up there?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial to the issues in this case.

A. Why, there was a conversation took place in reference to—

Q. Well, what was the conversation?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial to the issues in this case.

A. In reference to the matter of obtaining a loan.

Q. He told you about it? I am going to get all of it, Mr. Ehle, and you might tell me right off as to delay about it.

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial, and an attempt

(Testimony of A. E. Ehle.)

upon the part of counsel to cross-examine the witness.

A. Why, as I say, it was in reference to a loan as to whether such a thing was available or not.

Q. Well, what did Mr. Cobban say?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial.

A. Well, it was understood that he was loaning money, and very likely we could make arrangements in some way. Just the wording of the conversation I don't remember.

Q. Had you ever been to Cobban's office before that time?

By Mr. BICKFORD.—That is objected to upon the ground that it is immaterial and irrelevant.

A. Yes, I think I had.

Q. How many times?

By Mr. BICKFORD.—That is objected to upon the ground that it is immaterial and irrelevant.

A. I don't remember.

Q. On this matter, I mean, Mr. Ehle.

By Mr. BICKFORD.—That is also objected to as being irrelevant and immaterial.

A. No, I did not.

Q. What is that?

By Mr. BICKFORD.—That is also objected to as being irrelevant and immaterial.

A. No, sir.

(Testimony of A. E. Ehle.)

Q. So that the only time that you was at Cobban's office in connection with this business was the time when you have referred to.

By Mr. WALSH.—We object to that upon the ground that it is leading, and further it is irrelevant and immaterial.

A. With reference to obtaining a loan? I think so.

Q. But you don't know the date?

By Mr. WALSH.—We object to that upon the ground that it is leading, and it is also irrelevant and immaterial.

A. I was out and in his office oftentimes, with a view to obtaining work, also. Mr. Cobban's company had more or less carpenter work going on. I did some work for them, and several times was in to ascertain whether they had anything on hand in that line or not, after moving down to Missoula.

Q. Well, did you see him afterwards, and until you went to prove up in regard to this matter?

By Mr. BICKFORD.—We also object to that because it is leading, and it is also irrelevant and immaterial.

A. Why, I think that I had met him at one time, asked him if, shortly before the day of the final proof, if it was going to be so that I could get the money that we had spoken of.

Q. Well, what did he say?

By Mr. BICKFORD.—We object to that upon the

(Testimony of A. E. Ehle.)

ground that it is hearsay, and it is also irrelevant and immaterial.

A. Why, his answer, I believe, was in the affirmative. He said he thought it would be all right when we was ready for it.

Q. When did you see him again?

By Mr. BICKFORD.—That is also objected to as being leading, and also as being irrelevant and immaterial.

A. Not at all that I remember of.

Q. You have stated all the times now that you can remember, when you had any dealings with Mr. Cobban in regard to this loan?

By Mr. BICKFORD.—We object to that as leading. We also object to counsel stating the testimony of the witness, and repeating it.

A. Yes, sir.

Q. Well, now, are you able to say now as to whether or not, when the time came for proving up, you did make your proof on that day?

A. Why, I wouldn't be positive about whether I did or not. I know some of our family or relatives there didn't prove up on the day it was advertised for, but whether my proof was made on the day that it was advertised or not, I don't remember.

Q. You have no recollection as to whether you made your final proof on that day or not?

By Mr. BICKFORD.—We object to that for the rea-

(Testimony of A. E. Ehle.)

son that it is calling for testimony that has already been given by the witness, and it is irrelevant and immaterial.

A. I don't remember.

Q. Well, let me refresh you recollection from the original record in the case now in possession of the register. I read as follows: "United States land office, Missoula, Montana, August 18th, 1900. Albert Ehle, being first duly sworn, according to law, deposes and says that he is the same person who made timber and stone entry number 1188 for the northwest quarter of section three, township 15 north, range 16 west. That on November 24th, 1899, the date set for making said proof, he was unable to obtain the money with which to pay for said land. That he had, prior to said time, made arrangements with parties at Missoula, Montana, from whom he expected to obtain said money; that he was unable to do so until the 25th day of November. That he called at the United States land office, and was informed that, under the circumstances, the delay of a day or so would not cause his proof to be rejected, and that it would not be necessary for him to seek other parties from whom to obtain the money to pay for said lands. That the parties from whom he expected to obtain the money to pay for said land were absent from the city November 24th, and this was the cause of the delay. (Signed Albert Ehle.) Subscribed and sworn to before me this 1st day of August, 1900. Elmer E. Hershey, register."

(Testimony of A. E. Ehle.)

A. I remember it all right now, yes, sir. I was thinking that that some of the others was postponed there for a time, and there was just one that was proved up on. But I really wasn't positive whether my own was one of them or not. I guess there were others. I don't know about that, though.

Q. Also, I read from the receiver's receipt: "Receiver's Office at Missoula, Mont. Received from Albert Ehle, of Missoula County, Montana, the sum of four hundred dollars and no cents, being in full payment for the northwest quarter of section number 32, in township number 15 north, of range 16 west, containing 160 acres and no/100 at $2.50 per acre."

Q. Did you pay that money into the land office yourself?

A. Why, not in the way of currency.

Q. In what way did you pay it?

A. Why, I am not sure whether I handed them a check, or whether Mr. Cobban seen to it that I actually used it in that way or not. Possibly he—no, I am not sure whether he gave me a check for the amount, or whether one of his men in the office came down and turned it over for me.

Q. Is that the way you wish to have it, Mr. Ehle?

A. That is all right.

Q. Don't you know, Mr. Ehle, that Mr. Cobban, the representative of Mr. Catlin, paid the money into the land office at that time?

(Testimony of A. E. Ehle.)

By Mr. WALSH.—We object to that as being leading, And also for the further reason that there is no evidence that Mr. Catlin was the agent of Mr. Cobban.

A. I wouldn't be sure.

Q. What do you say?

A. I wouldn't be positive that he did.

Q. Did you receive at that time any money from Mr. Cobban for the purpose of paying it in to the land office, or anything that represented money yourself?

A. Well, if he gave me a check for that amount, I received that.

Q. What is that?

A. If he gave me a check, which I say I was not positive whether he did or not; but if he didn't, but sent one of his men out, as I said, to pay it, then I didn't receive anything from him.

Q. Have you any recollection of receiving a check from Mr. Cobban?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and the check itself would be the best evidence.

A. Yes, sir, I certainly did when I sold my land to him. I received checks from him in payment for work.

Q. I ask you now, have you any recollection of receiving any check from Mr. Cobban for the purpose of paying for that land?

By Mr. WALSH.—Now, that wasn't your question. You simply asked him whether he received a check.

(Testimony of A. E. Ehle.)

A. I stated two or three times that I wasn't sure whether I received a check or whether he sent a man down.

Q. Is that the best answer that you can give to my question, Mr. Ehle?

A. That is sufficient, it seems to me.

Q. Well, as to its sufficiency, that is one thing; I ask you if that is the best answer that you can give to the question?

A. That is all I am going to give.

Q. Now, when was it that you received any check?

By Mr. WALSH.—We object to that as being leading.

A. I have just stated three or four times that I am not positive, and I still state it the same.

Q. And have you any recollection of receiving any check from Mr. Cobban, for the purpose of paying for the land?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. As I stated, I haven't any recollection of whether it was a check, or note, or otherwise.

Q. Don't you know, now, that the check was handed into the land office by some person other than yourself?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial to the issues in this case, and further that it is leading.

A. I wouldn't be positive of that.

(Testimony of A. E. Ehle.)

Q. You wouldn't be positive of that?

A. No, sir.

Q. But you say you do have a recollection of receiving a check from Mr. Cobban at that time you sold this land to him?

A. Why, yes, sir, certainly.

Q. Well, why should you be certain in your recollection about the check and have no recollection about the other?

By Mr. WALSH.—We object to that as irrelevant and immaterial, and as cross-examining his own witness.

By Mr. MAYNARD.—Certainly it is.

A. Well, I certainly got paid for the land, and I remember it was in the shape of a check.

Q. How much was it for?

A. Why, it was for six hundred and some odd dollars. No, the check wasn't for that; it was for the balance between—

Q. I ask you how much the check was for that you received from Mr. Cobban in payment of the land?

By Mr. BICKFORD.—We object to that because the check itself is the best evidence of its contents, and no effort has been made as yet to lay a foundation for secondary evidence of its contents.

A. I disremember just the number of dollars that it did call for. It was the difference between the purchase price and what I owed.

Q. Well, what was the purchase price?

(Testimony of A. E. Ehle.)

A. I think it was $650.00.

Q. You think it was $650.00, you say?

A. I believe that it was, yes, sir.

Q. At any rate, the check that you received from Mr. Cobban for the payment of the land was the difference between what he had paid in the land office and the purchase price of $650.00; is that it?

By Mr. BICKFORD.—We object to that because the testimony of the witness is not that Cobban had paid any money into the land office, but that he doesn't know whether it was paid in by himself, the witness, or by someone else, and further because it is irrelevant and immaterial, and because the witness has already answered the question that is now propounded to him.

A. That is the difference between the money that I had arranged for with Mr. Cobban and the purchase price.

Q. And you say that the purchase price was how much? A. I think it was $650.00.

Q. Well, have you any recollection in the matter?

A. Why, I wouldn't be positive as to the exact amount of that either.

Q. That is, that you sold your land to Mr. Cobban and you have no recollection as to how much you charged for it?

A. Six hundred and fifty dollars I got for it.

Q. What is that?

A. Six hundred and fifty dollars; I believe it was $650.00 that I got for it.

(Testimony of A. E. Ehle.)

Q. Well, you won't be positive as to that, will you?

A. No, I wouldn't be positive as to that.

Q. Therefore, if you are not positive as to that, you wouldn't be positive as to the amount of the check that you got from Cobban for the purchase price.

By Mr. BICKFORD.—We object to that as being leading and irrelevant and immaterial.

A. I haven't stated what the amount of the check was.

Q. You haven't stated—you don't know what it was?

By Mr. BICKFORD.—We object to that for the reason that the witness has already answered the question.

A. Not to the dollar.

Q. Well, how positive are you as near as you can state it, if you can, and if you cannot, as to whether it was five dollars.

By Mr. BICKFORD.—We object to the question for the reason that it is irrelevant and immaterial, and evidently an attempt on the part of counsel to cross-examine his own witness, and further, because the check itself is the best evidence of its contents.

By Mr. MAYNARD.—Well, I wish you would produce the check.

A. I told you that. Still, as I say, we had transactions at different times, and I received different checks, and different amounts, for wages, and so on, but as to this final check, I wouldn't attempt to say

(Testimony of A. E. Ehle.)

just what it was because I borrowed money from Mr. Cobban, a time or two, which might have been deducted from this, but whether it was made up in some other way, I am not positive at the present time. I borrowed twenty dollars of him at one time, but I think it was after I had sold him the land, but I wouldn't be positive whether it was before, or whether it was deducted from the purchase price or not.

Q. What did you say you borrowed this twenty dollars for?

A. I don't remember now what I did use that for.

Q. Do you remember when you did borrow it?

A. I borrowed it either that fall or winter.

Q. When was the next time that you borrowed money from Mr. Cobban?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not prove or tend to prove any of the issues involved in this case.

A. I think the twenty dollars was the last that I borrowed.

Q. The last money you borrowed?

A. I think so, yes, sir.

Q. Well, when was the time that you borrowed from him before you borrowed this twenty dollars?

A. I think that was the four hundred dollars.

Q. And where was the other?

By Mr. BICKFORD.—We object to that upon the

(Testimony of A. E. Ehle.)

ground that it is irrelevant and immaterial, and the question has already been answered by the witness.

A. Which other?

Q. Well, you say you have borrowed money from him at other times, and you have stated at one time you borrowed $20.00. Now, when did you borrow the money this other time?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and has already been answered by the witness, and further, it does not prove, or tend to prove any issues in this case.

A. Well, there is two times that I borrowed money.

Q. Well, can you state any other time?

By Mr. WALSH.—We object to that as being irrelevant and immaterial, and in no way bearing upon the issues in this case.

A. No, sir, I don't think I can.

Q. What work had you done for him that spring that you had been paid for by him?

By Mr. BICKFORD.—We object to that also as being irrelevant and immaterial, and it does not prove, or tend to prove any issue raised by the pleadings in this case.

A. I helped to build a water-break.

Q. What?

A. I worked on a water-break, next to his orchard home property.

Q. When was that?

(Testimony of A. E. Ehle.)

A. It was that winter following the loan transaction, I believe.

Q. The winter following the loan transaction?

A. Yes, sir.

Q. Well, go on and state any other time.

By Mr. BICKFORD.—That is also objected to for the reason that it is irrelevant and immaterial and does not prove, or tend to prove any issue in this case.

Q. Name some other time.

A. All that I done for him was during that following winter.

Q. That was after this transaction was completed then? A. Yes, sir.

Q. Well, if all the work that you did for Mr. Cobban was after the matter was completed, and the only time that you can remember that you ever borrowed any money from him was this $20.000, how do these two things prevent you from recollecting how much money you got for the land?

By Mr. BICKFORD.—We object to that also for the reason that it is irrelevant and immaterial and calls for a conclusion from the witness, and not a statement of fact.

A. I didn't state that the borrowing of the $20.00 was after. I stated that I thought so.

Q. Well, if it was before the borrowing of the $20.00 from Cobban and before the borrowing of the $400.00, have you any recollection as to whether or not you have paid this $20.00 back?

(Testimony of A. E. Ehle.)

A. I have stated it some time ago. It was settled in some way. Whether it was for work, or whether it was taken from the purchase price, deducted from the purchase price of that land, I am not positive.

Q. But the work was not done until long after this whole land purchase was closed?

A. That is true, I think.

Q. What did you borrow the $20.00 for?

By Mr. BICKFORD.—That is objected to also for the reason that it is irrelevant and immaterial, and the question has already been answered by the witness.

A. I stated some time ago that I didn't remember what I used it for.

Q. And the only occasion in your life that you ever borrowed money from Mr. Cobban, namely, the borrowing of this $20.00 from him, you now swear that you have no recollection as to what occasion led you to borrow the money?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not prove, or tend to prove any issue in this case, and further, it is an attempt upon the part of counsel to cross-examine his own witness.

A. I do not.

Q. Well, what relationship existed between you and Cobban that authorized you to go and get $20.00 of him?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial.

(Testimony of A. E. Ehle.)

A. Mr. Cobban was doing more or less money loaning.

Q. Was it a purely business transaction, this $20.00 loan?

By Mr. WALSH.—We object to that as being irrelevant and immaterial.

A. I don't know what it would be called. I went in there and asked him for $20.00 and got it and gave him my note for it.

Q. How long was that note to run?

A. I don't remember the date.

Q. What?

A. I don't remember the time stated in the note.

Q. You don't know how long a time you asked for the payment of this $20.00?

A. I know it was only a short time loan.

Q. Well, how many days?

A. I wouldn't attempt to say at all.

Q. Well, was it thirty days?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial and an attempt by counsel to cross-examine his own witness.

Q. Was it thirty days? A. I don't know.

Q. You don't know? A. No, I don't know.

Q. You borrowed $20.00 from Mr. Cobban as a business transaction, and gave him your note, and now you swear that you have no recollection as to whether it was a thirty-day note or not?

(Testimony of A. E. Ehle.)

By Mr. WALSH.—We object to that as being leading, and further that it is irrelevant and immaterial, and endeavoring to get an answer from the witness to a question that he has already answered. And upon the further ground that it is an attempt upon the part of counsel to cross-examine the witness.

A. I don't remember the length of time, and furthermore I can take you down here, where I have borrowed money in this town, and I don't remember the length of time it was for.

Q. Well, have you any recollection as to whether or not the money you borrowed in this way was paid when it was due?

By Mr. WALSH.—We object to that as being leading, and further that it is irrelevant and immaterial, and endeavoring to get an answer from the witness to a question that he has already answered, and upon the further ground that it is an attempt upon the part of counsel to cross-examine the witness.

A. Yes, sir.

Q. You have a clear recollection of that?

A. I have a recollection of that, and I recall that it was satisfied in some way.

Q. You have a recollection that the $20.00 loan was satisfied in some way?

By Mr. BICKFORD.—We object to the repetition of the testimony of the witness by counsel, and we further object to the question for the reason that it has already been answered.

(Testimony of A. E. Ehle.)

A. Yes, sir.

Q. Well, if it was satisfied in some way, can you state definitely in what way?

By Mr. BICKFORD.—We object to the repetition of the testimony of the witness by counsel, and we further object to the question for the reason that it has already been answered. The witness having already stated that the settlement either came in in the transfer of the land and was taken out of that, or it was settled on account of work that was done or otherwise, and he does not recall in which way.

Q. Can you state now as to when that $20.00 that you borrowed of Cobban was paid, and in what way?

By Mr. BICKFORD.—We object to that for the reason that it is a repetition of the testimony, and the witness having already stated that the settlement either came in in the transfer of the land and was taken out of that, or it was settled on account of work that was done, or otherwise, and he does not now recall in which way.

A. No, sir.

Q. Have you got that note?

A. No, sir, I have not.

Q. Where is it?

A. Well, sir, I presume it is burned.

Q. Well, now, sir, if you had given that note for $20.00, a short-time note, and you afterwards sold your land to him, wouldn't you know as to whether or not that note was included in the settlement or not?

(Testimony of A. E. Ehle.)

By Mr. BICKFORD.—We object to that for the reason that it is calling for a conclusion from the witness, and because the question has already been answered by the witness, and it is cross-examination of the witness.

A. I cannot say that I would know.

Q. Now, refresh your recollection. Can you give me any answer as to why you borrowed this $20.00? And what you wanted it for?

By Mr. WALSH.—We object to that upon the ground that the question has already been answered by the witness.

A. No, sir; I have no recollection whatever, of what I used it for.

Q. And you have no recollection now, as to how much you got for your land?

By Mr. WALSH.—We object to that upon the ground that the question has already been answered by the witness.

A. I haven't made any such statement.

Q. Well, have you any recollection about it?

A. Yes, I got $650.00 for it.

Q. Well, how much—you only received your pay at the time you got your check, at the time you sold the land to Cobban, wasn't it?

A. I received a payment at the time the transfer was made, certainly.

Q. Now, then, what I want to know is, when you made this transfer to Mr. Cobban, you received his

(Testimony of A. E. Ehle.)

check, and I want to know how much there was in the check?

By Mr. WALSH.—We object to that for the reason that the check itself is the best evidence.

A. I don't remember that.

Q. You don't remember? A. No, sir.

Q. Can you say that it was more than $100.00?

A. I think it was.

Q. Will you swear that it was more than $125.00?

By Mr. WALSH.—We object to that for the reason that the check itself is the best evidence, and upon the further ground that the question is leading.

A. I wouldn't swear to the exact amount of the check, no, sir.

Q. Will you swear that it was more than $125.00?

By Mr. WALSH.—We object to that for the reason that the check itself is the best evidence, and upon the further ground that the question is leading.

A. I have just said that I wouldn't swear to it.

Q. What is that?

A. I said that I wouldn't swear to the exact amount of the check.

Q. You sold this land to Cobban on the very same day that you proved up, and the day that the money was paid into the land office, as you have stated?

By Mr. WALSH.—We object to that as leading.

A. I believe it was the same afternoon.

Q. Whereabouts was it? A. In his office.

(Testimony of A. E. Ehle.)

Q. In his office; who else was present with you, besides you and your wife?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial.

A. I don't know that anyone was with us—with me especially.

Q. And you are sure that it was a check that you received from Cobban? A. I think it was.

Q. Do you remember what bank it was on?

A. It was on the Montana National Bank, I think.

Q. On what bank? A. The Montana National.

Q. Have you a recollection of getting it cashed yourself? A. Why, certainly I got it cashed.

Q. Whereabouts did you get it cashed?

A. At the bank.

Q. When? A. Oh, I don't remember that.

Q. You don't remember that. You don't remember whether it was the same day or not?

A. No, sir, I do not.

Q. Have no recollection as to whether you carried that check around in your pocket for weeks or not?

By Mr. WALSH.—We object to that as leading.

A. I don't think it was very many weeks, possibly not many days.

Q. Well, was it many minutes after you got it?

By Mr. WALSH.—We object to that as leading, and upon the further ground that it is irrelevant and immaterial.

(Testimony of A. E. Ehle.)

A. It was several, anyway.

Q. Didn't you go straight away from Cobban's office to the bank and get your cash?

By Mr. WALSH.—We object to that as leading, and upon the further ground that it is irrelevant and immaterial.

A. I am not sure whether I did or not. I said a little while ago that I didn't remember when I cashed it.

Q. You won't say whether it was on the same day or not?

By Mr. WALSH.—We object to that as leading, and upon the further ground that it is irrelevant and immaterial.

A. It might have been.

Q. You got the check cashed at the bank yourself, but you have no recollection as to how much you got, is that so? A. That is so.

Q. Your wife had made a filing at the same time that you did, had she not?

By Mr. WALSH.—We object to that as leading and upon the further ground that it is irrelevant and immaterial.

By Mr. BICKFORD.—And for the further reason that the witness is now allowed to testify as to any transaction had with his wife, or any transaction during coverture.

A. I believe so.

(Testimony of A. E. Ehle.)

Q. She didn't prove up on her claim the day that you did, did she?

By Mr. WALSH.—We object to that as being leading, and further that it is irrelevant and immaterial.

A. No, sir, I think not.

Q. Do you know why?

By Mr. WALSH.—We object to that as being leading, and further that it is irrelevant and immaterial.

A. Why, when we spoke about borrowing the money on—borrowing money to prove up on her claim, I think Mr. Cobban had a record of the estimate of timber estimated on that land; and he advised us that it was not a very good claim. That there wasn't as much timber on it as we thought we had, and advised her not to prove up on it.

Q. How long was that after she did file?

A. Well, I think it was at the time we spoke to him about borrowing the money of him.

Q. That is about the time that—the time of proving up, wasn't it?

By Mr. WALSH.—That is objected to as leading.

A. Shortly before.

Q. Then, when your wife got this information she made another filing, did she not?

By Mr. WALSH.—That is objected to upon the ground that it is leading, and further it is not the best evidence.

A. After that.

Q. Did you go up with her? A. Go up where?

(Testimony of A. E. Ehle.)

Q. When she made her second filing on the second piece of land?

A. Go up into the timber, do you mean?

Q. Yes, sir. A. I did, yes, sir.

Q. Do you remember when that was?

A. It was some time in December, I think, that same fall.

Q. Who went with you?

A. Mr. Reeve and Mr. Starkie.

Q. What did they go with you for?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. For the purpose of having them as witnesses, I believe, and also wanting to take a hunting trip.

Q. Where did you go?

By Mr. BICKFORD.—We object to that also for the reason that it is irrelevant and immaterial.

A. Went up into the Clearwater District, Owl Creek, and Placid Lake country, and to George Hammond's old logging camp. I have forgotten who was running it at that time—and we went up to this ground that she located.

Q. Who was with you at that time?

By Mr. BICKFORD.—We object to that also for the reason that it is irrelevant and immaterial.

A. The parties that I have just named.

Q. Anybody else? A. No, sir.

Q. Albert Jemison wasn't with you, was he?

(Testimony of A. E. Ehle.)

A. No, sir.

Q. Just Starkie, and your brother in law and your father in law, and your wife?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial and has already been answered.

A. Yes, sir.

Q. Where was this claim situated, that your wife took up the second time?

By Mr. BICKFORD.—We object to that for the reason that the record evidence is the best evidence.

A. It was on the bench between what is known as George Hammond's camp and the river, directly east, I think, from Charlie Morrell's ranch.

Q. Do I understand that there was just four of you in the party? A. That is all.

Q. How far was it from the Clearwater?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. Why, it was quite close.

Q. How far?

A. At the corner of it. I don't think it was over—well, somewheres from a quarter to three-fourths of a mile, possibly not over a quarter. I am not really sure as to how close it did come down to the river. In any case, it was what was considered close.

Q. How long were you gone up there?

A. I think we were gone seven or eight days, six or eight days.

(Testimony of A. E. Ehle.)

Q. Hunting?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and has nothing to do with the issues in this case.

A. Why, after going the land we spent a few days hunting.

Q. Well, I wish that you would describe this land that your wife took up as well as you can.

A. Well, I know of no other description in particular other than that it was on the hill from the Clearwater, lying between that and Hammond's camp. That is, there was no party operating there at that time, but it was known as Hammond's old camp. I think I have the directions in my mind correctly. It was directly east of Charlie Morrell's ranch, possibly about two and one-half miles east, but I wouldn't be positive as to the distances.

Q. The Clearwater runs right through Morrell's ranch, does it not?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and leading.

A. I think it does.

Q. And how far is this 160 acres from his house?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and does not prove, or tend to prove any issue raised by the pleadings in this case.

A. I have just stated that I wasn't positive as to the

(Testimony of A. E. Ehle.)

distance, but I thought probably two miles and a half.

Q. Whereabouts, in the mountains?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and does not prove, or tend to prove any issue raised by the pleadings in this case.

A. Up on the bench or hillside.

Q. Up on the side of the mountain?

By Mr. BICKFORD.—We object to that as leading, and it is also a repetition, and is a question that has already been answered by the witness; and it is presupposing testimony of the witness, which has not been given.

A. It isn't on any special ridge, but on an elevation of country ridges, and high ground, yes, sir, directly back from the Clearwater stream.

Q. Directly back from the Clearwater stream?

A. Yes, sir. I think north from the Clearwater.

Q. What section was it on?

By Mr. BICKFORD.—We object to that also for the reason that it is not the best evidence of the fact sought to be elicited.

A. I disremember—I don't remember.

Q. What is that? You don't remember?

A. No, sir, I don't remember.

Q. What range and township?

By Mr. BICKFORD.—We object to that also for the

(Testimony of A. E. Ehle.)

reason that it is not the best evidence of the fact sought to be elicited.

A. I don't remember that now.

Q. Well, have you described this 160 acres that your wife took up, as well as you can now?

A. Yes, sir.

Q. About two and a half miles each from Charlie Morrell's ranch? A. I think about that.

Q. Up in the mountain?

By Mr. BICKFORD.—No, he hasn't said up in the mountains, and we object to the interpolation of that remark into the record by counsel for the complainant, because it is not the testimony of the witness.

A. Why, I believe I said yes, but then it wasn't on any particular high ridge.

Q. Have you ever been to this particular location before? A. Yes, sir.

Q. How many times had you been there before?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. I think about twice.

Q. When had you been there before?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. On hunting trips.

Q. On hunting trips?

By Mr. WALSH.—We object to that as already having been answered by the witness.

(Testimony of A. E. Ehle.)

A. Yes, sir.

Q. That is, twice in your life, before this time, in hunting, you have passed near it or over it?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial.

A. I had hunted right over it.

Q. You had hunted right over it? A. Yes, sir.

Q. Well, was there anything particular about this description that marked it from one on the other side north, south, east, or west?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial.

A. Nothing that I can recollect to specially mark it.

Q. Did you have any difficulties when you and your brother in law and father in law and wife left to go to this location, in finding it?

By Mr. BICKFORD.—We object to any family feud being injected into the case because it is irrelevant and immaterial, and the witness is not allowed to testify to any transactions between husband and wife during coverture.

A. In what nature?

Q. In finding it? A. No, sir.

Q. Why?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and calls for a conclusion from the witness, and not a fact.

(Testimony of A. E. Ehle.)

A. Why, we had the locality quite definitely in our minds, and we followed the survey lines, etc.

Q. What did you have more definite in your mind at that time than you have given now, in regard to this particular description?

A. Why, we had ascertained that particular piece of ground was vacant.

Q. What piece of ground?

A. The piece of ground that she located.

Q. Who did you ascertain that from?

A. Why, I think that Mr. Kilburn mentioned the fact that there was a piece in there vacant and we found by the records that it was true.

Q. Whereabouts did you see the records?

A. Why, I think I saw a plat in Mr. Cobban's office, or the land office, I wouldn't be sure which.

Q. Which land office?

A. The United States land office at Missoula. No, I think I saw the plat in Mr. Cobban's office.

Q. At what time was this?

A. Well, shortly before going up there to look at it.

Q. Well, who pointed out this description on that plat?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial and has nothing whatever to do with the issues in this case, and the question assumes that somebody pointed it out to the witness, a fact which the witness has not testified to.

A. Why, I am not sure that anyone pointed it out. I

(Testimony of A. E. Ehle.)

say Mr. Kilburn spoke to us about a piece of land being vacant in there.

Q. When and where did you see Mr. Kilburn?

A. Why, I worked under Mr. Kilburn at different times. At this particular time, though, I am not sure when it was that he told that, possibly at Cobban's office.

Q. Well, if it is possible that Mr. Kilburn told you this at Mr. Cobban's office, and you looked at the plat in Mr. Cobban's office, isn't it also possible that you were able to go directly to this location by having the particular description given you at that time?

By Mr. WALSH.—We object to this upon the ground that it is argumentative.

A. I had the numbers.

Q. You had the numbers? A. Yes, sir.

Q. Who gave you the numbers?

A. Why, I told you that Mr. Kilburn spoke to us about a piece of land in there that was vacant, and I had a talk with him, and I looked over the plat with him, and it was designated on the plat, and I think on starting up the river that we had the numbers on paper, and went up there in that vicinity and followed the survey lines, until we went over the ground.

Q. Of course you did, certainly. Just say, now, when you got your numbers—it is easy enough now after you have got the numbers to go to the ground and locate it.

By Mr. WALSH.—We move to strike out the statement of the counsel, as not being the testimony of any witness.

(Testimony of A. E. Ehle.)

By Mr. MAYNARD.—Yes, it is testimony, it is a fact.

By Mr. WALSH.—We move to strike that out as being a declaration of counsel.

Q. In other words, it is true, is it not, Mr. Ehle, that when Cobban, shortly before the time came for you and your wife to prove on her first location, told you—told her that she ought not to prove up on that location because there wasn't enough timber on it, but that you get another description; and you went up and located on that? That is true, is it not?

By Mr. WALSH.—We object to that as calling for no testimony from the witness, and being a mere rehearsal of the testimony of the counsel, and further as having already been testified to by the witness, as disclosed by the question.

A. He advised me not to prove up on that claim, and she followed his advice, and afterwards filed on the other piece.

Q. Yes, sir.

By Mr. BICKFORD.—We move to strike out the affirmative declaration on the part of the counsel, as being no testimony of the witness.

Cross-examination.

(By Mr. BICKFORD.)

Q. You are sure that you didn't talk to either Mr. Walsh or myself between the adjournment last night and this morning, Mr. Ehle?

A. I am positive of that.

(Testimony of A. E. Ehle.)

Q. You remember that fact as well as you remember any other fact that you have testified to in this case?

A. Yes, sir. That is too recent for me to forget it.

Q. Now, you haven't talked to Judge Blake about this case, have you? A. No, sir.

Q. Nor to the stenographer? A. No, sir.

Q. I will ask you to state whether, as a matter of fact, you ever talked with the counsel on the other side, Mr. Maynard? A. No, sir.

Q. You haven't talked to him about the case?

A. No, sir.

Q. You have been in the Blackfoot country, I understand, prior to your going up there to locate on a piece of land? A. Yes, sir.

Q. You were somewhat acquainted with the country, and the character of the land up there? A. Yes, sir.

Q. It is largely a timber country, isn't it?

A. Yes, sir.

Q. And the land that you made a filing upon yourself, was that a piece of farming land, or a piece of timber land?

A. It was timber—considerably like up on the hill, the mountains.

Q. Was it a suitable piece of land for farming purposes?

A. No, sir, I don't think it could be utilized for any other purpose.

Q. Could it be used for any other purpose than for the timber on it?

A. I don't think it could be used for anything except

(Testimony of A. E. Ehle.)

stone quarry, and the timber, and it was very inaccessible —a long ways from market.

Q. When you went over the land you examined it particularly to determine its character, did you?

A. Yes, sir, certainly, went all over it.

Q. What was your purpose in going over the land?

A. For the express purpose of selecting a piece of timber land to file on.

Q. Didn't you also go on there for the purpose of ascertaining for what the land was most valuable for?

A. Yes, sir, to examine it, and to satisfy myself as to the nature of the land in every respect.

Q. Were you able by having a corner pointed out, or by having the section line pointed out, to follow the lines along the boundary of this land? A. Yes, sir.

Q. And go by the markings on the posts and ascertain what particular quarter of section of land you were on?

A. Yes, sir.

Q. Now, you have testified, I believe, that you borrowed the money from Mr. Cobban with which to make your final proof on this land? A. Yes, sir.

Q. At the time when you made your arrangements to borrow the money from Mr. Cobban, did you make any contract or agreement with him to sell the land to him?

A. No, sir; I did not.

Q. Now, at the time when you talked with Mr. Totman, as you have stated, at Bonner, did you make any contract or agreement to sell the land to him?

A. No, sir; nor I didn't try to make any with him

(Testimony of A. E. Ehle.)

either. I was just simply asking for the information as to whether or not he was desirous of getting land in that locality.

Q. Didn't you ask him the question for the purpose of informing yourself generally as to the condition of the timber market, and as to the desirability of having lands in that vicinity?

A. Yes, sir; that was the object explicitly.

Q. At that time, did you contemplate selling the land to Mr. Totman? A. Not in particular, no, sir.

Q. Now, you have stated, I believe, that you also talked with a Mr. Vogel? A. Yes, sir.

Q. Did you make any contract or agreement with Mr. Vogel to sell him the land? A. No, sir.

Q. Did you enter into any negotiations with him to sell him the land after you had made your final proof?

A. No, sir.

Q. In selecting your witnesses to make final proof upon this land, what people did you select as your witnesses?

A. Why, Mr. Reeve was one of them; and really I am not sure who was the other one.

Q. I know, but what I am trying to get at is, what qualifications did the witnesses have to have?

A. Had to have knowledge of that particular land, and its location and general character.

Q. Did you pick out such men?

A. I think I did. I aimed to.

Q. Then it was your endeavor to pick out such men as were acquainted with the land, and could testify under-

(Testimony of A. E. Ehle.)

standingly as to the character of the land which you had selected? A. That was my intention, yes, sir.

Q. You said it was a check upon the Montana National Bank? A. Yes, sir.

Q. I want to ask you concerning that. Is there a bank in Missoula known as the Montana National Bank?

A. I think that was the name of the bank. Didn't I say I wasn't positive?

Q. Well, the only banks in Missoula are the First National Bank and the Western National Bank.

A. Well, probably it was the Western National Bank.

Q. Was it a bank having its place of business in Missoula? A. Yes, sir.

Q. Well, you know, do you not, that there is only the First National Bank and the Western National Bank in Missoula?

A. There are only two banks there, but I really don't remember the names.

Q. You are certain now that it was on some Missoula bank?

A. Why, certainly, yes, sir; that is, I am quite positive it was.

Q. Now, you said, I believe, in your examination in chief, that you didn't know Griswold at the time you made your entry of the land, nor until the time you made your final proof?

A. No, I didn't say I didn't know him at the time of making final proof.

Q. You made his acquaintance between the time of

(Testimony of A. E. Ehle.)

filing your original statement and the making of final proof?

A. I made his acquaintance between these times; yes, sir.

Q. Now, is that the same man that has been sitting with counsel for the Government over at the other end of the table here? A. Yes, sir.

Q. That is the gentleman that you refer to, is it?

A. Yes, sir.

Q. Did Mr. Griswold ever hire you to go upon the public domain and take up a timber and stone claim?

A. No, sir. I never knew Mr. Griswold prior to that time.

Q. Did anybody ever hire you to do that sort of thing?

A. No, sir.

Q. Now, at the time you were working for Mr. Cobban, what was the nature of your employment with him?

A. Why, I was building a breakwater.

Q. And Mr. Cobban didn't hire you to go upon the public domain to take up a timber and stone claim, did he?

A. I didn't know Mr. Cobban at that time. I had never met him.

Q. As a matter of fact, he never hired you for any such thing? A. No, sir.

Q. The wages that he paid you was for work that you performed as a carpenter?

A. Yes, sir; work that I performed, working with other men that were hired to do this particular work.

(Testimony of A. E. Ehle.)

Q. What was the nature of this employment, and what were you employed to do for him?

A. To build a breakwater between the Missoula river and the Orchard Home of Mr. Cobban to keep the water from running and overflowing onto his property.

Q. I believe you said that you are a carpenter by trade?

A. Yes, sir.

Q. And it was as a carpenter that you were working for him? A. As a carpenter, yes sir.

Q. You have lived in the State of Montana for some years, I understand, Mr. Ehle? A. Yes, sir.

Q. Had you ever, before taking up this timber claim, contemplated doing so? A. I had, yes, sir.

Q. How long before?

A. Well, considerable length of time. I couldn't say as to how long.

Q. But was it for a number of years prior to that time?

A. Yes, sir. I think that I had for several years, provided I found a suitable and desirable piece.

Q. Had you ever made an entry upon any other land belonging to the United States, and under the laws of the United States? A. No, sir, never before.

Q. And had you contemplated taking up a homestead or a pre-emption entry? A. Yes, sir.

Q. But you had never done that? A. No, sir.

Q. You had bought yourself a home, as I understand you, at Missoula?

A. Well, not at the time I filed on this claim.

(Testimony of A. E. Ehle.)

Q. No, but between the time of your filing on the claim and your making final proof?

A. Between the time, yes, sir.

Q. When was it? A. I don't remember the date.

Q. Where was the property that you bought?

A. It was in the Stephens Addition.

Q. You bought it from whom?

A. Charles Beemer.

Q. He is a carpenter down there, is he?

A. Yes, sir; he used to be.

Q. Whereabouts is that from my old home?

A. Directly south, I think. I think you travel, perhaps, a little southeast.

Q. Who is your nearest neighbor there?

A. Why, we were directly—well, the building isn't east exactly, but it is directly in front of the old Frank Ives property.

Q. And the place you bought is near the place of Kennedy? A. Yes, and Jack Hannans' place

Q. I will ask you what you did with your home when you bought it?

A. I resided there up till last fall.

Q. Did you make any improvements on it?

A. Yes, sir.

Q. What did they consist of?

A. Fixed up the sides and put a border in the house, and fixed up the lining and the wallpaper in it.

Q. In other words, you fixed it up so that it would suit your convenience and usage? A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. Now, at the time when you made your entry at the United States land office and filed your sworn statement, in speaking of this land, you made this statement: 'That it contains no mining or other improvements, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said acts; that I do not apply to purchase the land above described, on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not directly or indirectly, made any agreement or contract, or in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the Government of the United States, may inure in whole or in part to the benefit of any person except myself. A. Yes, sir.

Q. Now, was that true, Mr. Ehle? A. Yes, sir.

Q. That is contained in the affidavit that you made at the time of making your filing? A. Yes, sir.

Q. You are a native born citizen of the United States, are you? A. Yes, sir.

Q. And you are over the age of twenty-one years?

A. Yes, sir.

Q. And a qualified entryman under the Timber and Stone Acts? A. I think so, yes, sir.

Q. You had never made one at this time, had you?

A. No, sir.

Q. Now, in making your final proofs, there were certain questions propounded to you with reference to your final proof, and question thirteen is as follows: "Have

(Testimony of A. E. Ehle.)

you sold or transferred your claim to this land since making your sworn statement, or have you directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which you may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except yourself?" You were asked that question? A. Yes, sir.

Q. And you answered: "No, sir." Was that answer true? A. It certainly was.

Q. And question fourteen is as follows: "Do you make this entry in good faith for the appropriation of the land exclusively to your own use, and not for the use or benefit of any other person except yourself?" Do you remember that question? A. Yes, sir.

Q. Was that answer true—you answered that, "Yes, sir." Was that true?

A. Yes, sir, it was true.

Q. And question 15, which is as follows, was also asked you: "Has any other person than yourself, or has any firm, corporation, or association, any interest in the entry you are now making, or in the land, or in the timber thereon?" Do you remember being asked that question? A. Yes, sir.

Q. And you answered that, "No, sir; not unless it is my wife." Was that true? A. Yes, sir.

Q. I believe you said that you had transferred this land on the same day that you made your final proof, to Mr. Cobban?

(Testimony of A. E. Ehle.)

A. I believe I said it was that afternoon.

Q. I want to ask you, as a matter of fact, whether it was after the time you had made your final proof, and received your final receipt therefor? A. It was.

Q. It was after that that you conveyed the land to Mr. Cobban? A. Yes, sir; it was after that.

At this point a recess was taken until two o'clock P. M. of the same day.

HENRY N. BLAKE,
Examiner in Chancery.

Saturday, March 22d, 1902, 2 P. M.

Redirect examination of ALBERT E. EHLE continued.

(By Mr. MAYNARD.)

Q. I just simply wanted to ask you, did you know you were indicted by the grand jury of the United States Court for committing perjury in this matter?

A. I knew there was an indictment or something to that effect, yes, sir.

Q. And that you were arrested and brought here?

A. No, I was not brought here, the indictment was served and I gave bail, a bond rather, and came of my own accord.

Q. Came here to Helena? A. Yes, sir.

Q. And was arraigned? A. Yes, sir.

Q. In answer to the indictment? A. Yes, sir.

Q. That matter is still pending?

A. I believe so.

ALBERT E. EHLE, being recalled for further examination, testified as follows:

Recross-examination.

(By Mr. WALSH.)

Q. In the course of your testimony you told that when you went out for the purpose of selecting your claim you all talked together about the particular description and you also found the descriptions upon the witness trees upon the corners, and my recollection is that you testified that you wrote down the description yourself upon a piece of paper, when was the talk about that?

Mr. MAYNARD.—We object to that because the question has already been asked and answered, by the witness, and it is just simply a repetition of that which has already been traversed by counsel in his cross-examination.

A. I believe I said I was not positive whether I took it down on paper myself or not, but we had decided on what piece of ground we wanted and we went through the timber, followed the survey lines, and from the marks on the trees, the corner stakes, etc., we selected our timber and some of us in the crowd at any rate took this down, whichever we decided on locating.

Q. What I want to know from you, who according to your recollection put down on the paper the description of your claim?

A. Why, I think that it was my brother in law, Mr. Starkie.

(Testimony of A. E. Ehle.)

Q. Now, are you quite sure that it was not Mr. Jameson who wrote down this description upon the paper?

A. I am quite positive it was not.

Q. What have you to say as to whether Mr. Jameson did not write this description down upon a piece of paper and tell you to take to Cobban & Dinsmore's office?

A. No, sir; I don't think that Mr. Jameson copied one at all.

Q. What have you to say as to his telling you to take that to Mr. Catlin or to Cobban & Dinsmore?

A. He gave no such instructions.

Q. Now, what conversation, if any, did you have with Mr. Jameson about selling your claim?

A. None whatever.

Q. Or bargain to sell it?

A. Why, none to my recollection.

Q. I wish you would state whether at the time you were out there with Mr. Jameson he told you that when you sold your claim that you could get one hundred dollars for it, clear of all expenses?

A. I don't think there was any such talk whatever, not to my recollection.

Q. And that after you got that money you could pay him for his services in the matter of assisting you in locating? A. No such talk.

Redirect Examination.

(By Mr. MAYNARD.)

Q. You never did pay him anything, did you?

(Testimony of A. E. Ehle.)

A. No, sir.

Q. Did you know of any money being paid him by any of your party?

A. Not that I am sure of.

Q. What?

A. I am not sure of any being paid them, by any of the party.

Q. Did you ever hear of any money being paid by your father in law, brother in law or your wife or anybody else? A. Not that I recall.

Q. Not that you recollect, have you any knowledge at all on the subject?

A. Not at the present time.

Q. What was he doing all that work for then, just for love and affection?

A. I don't know that there was any particular love and affection about it, at the time I went into the timber with him, I went accompanied by our relatives and it was not positively decided upon that I was to make selection for myself at that time.

Q. That is the best answer you can give, is it?

A. Yes, sir.

Q. But he went around with you, tramped through the snowy mountains, do you say he did the work for you for nothing?

Mr. WALSH.—We object to the argument of counsel.

A. There was no snow.

Q. If there wasn't any snow at the time, going up traveling around the mountains there?

(Testimony of A. E. Ehle.)

A. Well, I presume that he either expected or possibly got what he expected; must have expected some remuneration for it.

Q. From whom did he expect some remuneration?

Mr. WALSH.—Let the witness answer the question.

A. I started to say I had made no agreement with him to pay him anything nor to engage him for the trip.

Q. You never did pay him anything?

A. I did not.

Q. Did you know of anybody paying him?

A. I stated that I did not.

Q. (Mr. WALSH.) He was with your father and brother in law when they took you in, wasn't he?

A. Yes, sir.

Q. (Mr. MAYNARD.) What do you mean by that?

A. I mean to say that I went up in the party with them rather than with Jameson.

Q. Very well; when they stopped at your house to take you up into the mountains, do you say Albert Jameson was with you then? A. No, sir.

Q. That is what counsel has just put into your mouth, you said, yes?

A. I think not, I did not understand it that way.

Q. Now, then, what is the fact, you did not see Jameson until after the party stopped at your house and you went together up into the mountains and then met him, isn't that the truth? A. That is right.

Q. (Mr. WALSH.) How far did he go with you?

(Testimony of A. E. Ehle.)

A. Why, he went through the timber.

Q. How far did he have to travel from his home to go through from where you met him?

A. Really I could not say as to that; he lived right at the edge of the timber.

Q. About how far?

A. We went back into the mountains, possibly a couple of miles, or maybe three, I would not be positive, yes, possible more than three.

ALBERT EHLE.

Subscribed and sworn to before me this 24th day of March, A. D. 1902.

HENRY N. BLAKE,
Examiner.

ALBERT EHLE, a witness heretofore examined, was recalled for further examination.

Direct Examination.

(By Mr. MAYNARD.)

Q. Did I understand you, Mr. Ehle, that you or your father in law that has just left the stand, got this money from Mr. Cobban?

A. Why, I said that possibly he might have spoken to him in regard to it, but I also talked to him myself.

Q. Then, the way I understood you, the way I understood your testimony, was that he arranged about the matter. Now, what I want to know is, what is the fact; did your father in law arrange the matter with Mr. Cobban, or did you?

Testimony of A. E. Ehle.)

A. Why, as I stated, that I believed he spoke to him in regard to the loan, and told me that I could undoubtedly get it there, and I spoke to Mr. Cobban in reference to it myself; also, and he told me that he thought we could arrange for the loan with Mr. Cobban, and he did.

Q. Then you carried it on from that point?

A. Why, yes, I think so.

Q. And who were you acting and speaking for, Mr. Ehle?

A. Why, do you mean in the matter of getting the loan?

Q. Yes.

A. Why, for myself, certainly.

Q. And not for your wife?

A. I did also, when she borrowed her money. I spoke to Mr. Cobban about it. I think she went into the office with me, and talked to him also herself in person.

Q. Then you had no further dealings—no further negotiations with your father in law, Mr. Reeve, in regard to the matter, except what you have just testified to?

A. Nothing definite that I now remember of.

Q. Well, did he get the money for you that you paid for your land with, and for your wife's land, or did you get it?

A. Well, I think I stated it a time or two in my former testimony, that I wasn't positive that it came into the hands of either of us. That possibly it might

(Testimony of A. E. Ehle.)

have been turned into the land office by Mr.—somebody from Mr. Cobban's office, but I don't think it was through Mr. Reeve's hand.

Q. Then do I understand that you don't just know how it got into the land office?

A. Why, I stated that a time or two, that I wasn't positive whether Mr. Cobban gave me a check or whether he sent a man to the land office with me, and turned it in there, and seen to it that I used the amount that I was borrowing in the way I explained to him that I wanted it for.

Q. Well, now, just how did you explain it to him what you wanted it for?

A. For proving up on this land, on this timber land.

Q. You explained that you wanted the money to prove up on the timber land?

By Mr. WALSH.—We object to this as contrary to the testimony of the witness, and as calling for no new facts, material to the case.

Q. For yourself and wife, or for yourself?

A. The two transactions were at different times.

Q. At different times, were they?

A. Yes, sir. She proved up later in the fall than I did.

Q. Very well, what I had in mind all the time was that Mr. Reeve had had the matter in charge except one of them, but that that was an independent transaction, and I wanted to inquire into that. Then you got your own money for your own claim from Mr. Cobban?

(Testimony of A. E. Ehle.)

A. Well, it certainly wasn't delivered to Mr. Reeve, but first, I say, I think, Mr. Reeve spoke to Mr. Cobban in reference to us before I did.

Q. And you don't know who—whether Cobban, or what member of his office, paid it into the land office?

A. No, sir, I wouldn't be positive.

Q. Now, what did you do; did you secure Mr. Cobban, did you give him a mortgage on the land?

A. No, sir.

Q. Did you give him a note?

A. No, sir. Well, I gave him a note once or twice, but I don't think I did in reference to the timber land. Not with reference to the four hundred dollars. I think that was settled shortly after proving up by our transferring the property.

STIPULATION.

It is hereby stipulated between the respective counsel that the testimony of the witness, Albert Ehle, contained in this and the last foregoing two pages, may be read over and corrected by the Examiner, and when so read over and corrected by him, may be certified to be correct, and have the same force and effect as if corrected, signed, and sworn to by the witness.

I hereby certify that the testimony of the witness, Albert Ehle, given when recalled to the stand this day, has been correctly transcribed by the stenographer.

HENRY N. BLAKE,
Examiner in Chancery.

(Testimony of A. E. Ehle.)

Mrs. NELLIE J. EHLE, a witness called on behalf of the complainant, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. What is your name? A. Nellie J. Ehle.

Q. You are the wife of the man that has just left the stand? A. Yes, sir.

Q. You were here in the Examiner's room and heard his testimony? A. Yes, sir.

Q. You came with your father and mother, sister, husband and brother in law from Idaho, didn't you?

A. No, sir.

Q. And arrived here the same time as the rest of them? A. Yes, sir, I did.

Q. When did you marry Mr. Ehle?

A. In March, 1893.

Q. 1893?

A. Yes, sir, the 8th day of March, 1893.

Q. Where were you living at the time?

A. Helena.

Q. And your name was then Mary J. Reeve?

A. No, sir; it was Mrs. Nellie J. Estabrook.

Q. Oh, you had been married before?

A. Yes, sir.

Q. But your maiden name was Reeve?

A. Yes, sir.

Q. Did you say it was Nellie? A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. Since you were married you have been living with your husband? A. Yes, sir.

Q. And are living with him now? A. Yes, sir.

Q. How many children have you?

A. I have one.

Q. How old are you, please? A. Thirty-one.

Q. At the time that you married your husband, that is, Mr. Ehle, did you have any estate of your own, personal or real? A. I did not.

Q. And none has come to you since?

A. No, sir.

Q. Now, then, you took up—you made two selections under the Stone and Timber Act, didn't you?

A. Two selection; well, I made—

Q. Two filings?

A. I made two filings, yes, sir.

Q. Have you any present recollections as to the facts and circumstances which induced you to make these filings?

A. Well, no, only I knew that a lady had the right to take a timber and stone claim which I took my right to go and take my claim, get me a claim if I could get one.

Q. When did you first find that out?

A. Well, I don't know exactly when it was that I first found it out, but I was living at the Blackfoot when I found it out.

Q. You were living at the Blackfoot?

A. Yes, sir.

Q. When you found it out? A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. Are you able to state now that—are you able to say when you were living at the Blackfoot who you heard it from?

A. No, not exactly. My husband and I read the papers,saw a great many stone and timber entries taken up, we talked it over and we thought we could each take one, he and I could each get one, that is all I can remember that I heard first anything about it.

Q. What paper did you read it in?

A. "Anaconda Standard."

Q. Can you recollect anything about what you read in the "Anaconda Standard"?

A. I don't know only I saw there were filings there in the paper, only I don't remember anything about it; I saw there were names in the paper that had taken up claims, but I don't know what they were now, I don't remember.

Q. What they were, now, what do you mean by that?

A. Whose names they were, that had taken up the claims, or had made filings for these stone and timber claims.

Q. What did you see in the "Anaconda Standard"?

Mr. WALSH.—We object to that because the witness has already stated what she has seen, and stated all she remembers concerning it.

Q. Were they notices of publication, or was it local items or what?

A. They were notices that they had taken up timber and stone claims, that is all I know about it.

(Testimony of A. E. Ehle.)

Q. Who had taken them up?

A. I don't remember the names just now, I did not notice in particular who the names were, only I just noticed in the paper, that is all.

Q. Do you know what the legal advertisements are, in the notices of publication that are required under the Stone and Timber Act?

A. What do you mean?

Q. Well, I will try and show you; was the notice like that—I show the witness now notice for publication as a typical notice required by law and ask her if that was the kind of a publication that she referred to?

Mr. BICKFORD.—We object to the statement of counsel that it is a typical notice of publication, there being no such thing in law as a typical notice of publication.

A. Well, they were notices like that, yes.

Q. Now, when you saw such notices you say then that you and your husband ought to get some claims?

A. Well, we thought we had just as much right as anyone else to take up claims, so we tried to find us some claims.

Q. What did you do?

A. Well, we drove out several times in our horse and buggy; went up the Blackfoot to look around for claims, timber and stone claims.

Q. What did you say?

A. We drove out in our horse and buggy to look around for timber and stone claims.

Q. Just you and your husband alone?

(Testimony of A. E. Ehle.)

A. And our little boy was with us.

Q. Did you succeed in obtaining any?

A. We did not.

Q. Can you state why it was or how it was that you were unable to make locations?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Well, I cannot tell exactly. I guess for the reason we could not find any; that is the only reason I know.

Q. Could not find any

A. Could not find any suitable.

Q. How long were you gone at these times?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Well, I could not tell exactly how long we were gone.

Q. Do you know where you went?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Well, I can't tell exactly where we went to all the time we were out, I know we went up to the lake, I don't know exactly what the lake was, where the lake was nor what it was.

Q. Well, when was this with reference to your making your first location? A. When was it?

Q. Yes.

A. Well, I don't remember exactly when it was, I

(Testimony of A. E. Ehle.)

know it was the time when we lived up at Nelson's, in the Blackfoot country, I don't remember the exact time.

Q. Well, was it the same year that you filed?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. The same year that we filed, did you say?

Q. Yes. A. The first claim?

Q. Yes. A. Yes, sir.

Q. You are sure of that? A. Yes, sir.

Q. And just how long before to your best recollection?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. I don't remember.

Q. You don't remember? A. No, sir.

Q. Do you remember anybody that you saw?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. No, I saw a lot of people up there, but I don't know who they were.

Q. I am talking about in connection with this matter?

A. Oh, no, I did not see any one in connection with this matter at all, only my husband and myself.

Q. What I mean when you were with your husband, did you or your husband see anyone?

A. I did not see anyone in connection with that at all.

(Testimony of A. E. Ehle.)

Q. Can you remember what you did in connection with the matter?

A. No, only we looked around, that is all I can remember, we looked around for the timber claims and we did not find any, that is all I remember.

Q. Well, now, what I wanted to know, Mrs. Ehle, is what you mean when you say you looked around?

A. Well, we drove around the country, and we got out and walked around, to see if we could find any claims, and we could not find any, that is about all I know that we did do; we had our tent with us and camped out.

Q. Did you have any gun?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Yes, sir, we had a gun.

Q. And you did a little hunting on the side?

Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial and for the further reason that it is leading.

A. Yes, sir, Mr. Ehle hunted on the side.

Q. Was there a fishing stream around, too?

Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial and for the further reason that it is leading.

A. I don't remember.

Q. You don't remember whether he did any fishing or not?

(Testimony of A. E. Ehle.)

Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial and for the further reason that it is leading.

A. I know he did not do any fishing.

Q. How many such excursions as that did you make?

Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial and for the further reason that it is leading.

A. Why, I don't remember; I guess we made—I don't remember how many we did make.

Q. Can you give the name of a single man that you saw or that you spoke to—when I say you, I refer to you and your husband, in connection with locating you on any particular piece of land? A. I cannot.

Q. But you did later locate on a particular description, didn't you?

A. Mr. WALSH.—We object to that as leading.

A. You mean this first time?

Q. I mean after you came there with your husband, going out later in the year you did locate on a description?

Mr. WALSH.—We object to that as leading.

A. I don't know what you mean, do you mean the second claim we located?

Q. No, I am referring to the first claim you located?

A. Yes, sir.

Q. That was this same year after your husband and yourself had failed in making any location?

(Testimony of A. E. Ehle.)

A. Yes sir, I located it.

Q. Do you recall any of the facts and circumstances of that case? A. At the time I located?

Q. Yes.

A. No, I do not exactly; can't exactly recall them, only that we went up with my folks from the Blackfoot, from where we were living.

Q. You recall that fact? A. Yes, sir.

Q. Well, when you went up with your folks, your father and mother and Starkie and his wife were along, were they not, at that time? A. Yes, sir.

Q. Was there a location made for you at that time?

A. Not until I got up there to the mountains.

Q. I mean on this first trip?

Mr. WALSH.—We object to that as leading.

A. You mean on the first trip that we went or the second trip?

Q. On the first trip I mean? The first trip by which I mean you went with your father and mother?

A. I did not locate until we got up there, and found a claim.

Mr. WALSH.—We object to all testimony with reference to the location of the claim, which, according to the testimony of the witness was subsequent and no final proof made thereon, for the reason that the same is irrelevant and immaterial and does not prove or tend to prove any issue in the case, the land, if any was located, not being in controversy.

(Testimony of A. E. Ehle.)

Q. Now, please state to me the facts and circumstances connected with the location of your claim, what you did yourself.

Mr. WALSH.—We object to all testimony with reference to the location of the claim which according to the testimony of the witness was subsequent and no final proof made thereon, for the reason that the same is irrelevant and immaterial and does not prove or tend to prove any issue in the case, the land, if any was located, not being in controversy.

A. Well, all I remember was that my husband and I went over the land, that is my claim, we went over it together, and that is all that I remember about it.

Q. You remember that? A. Yes, sir.

Q. Was there anybody else present with you?

A. Why, my sister and brother and father and mother; we all went together there.

Q. That is, you all went up to the mountains together? A. Yes, sir.

Q. Now, you state that you remember that you and your husband went and looked over the land that you located. I ask you, then, who else was with you at that time? Not with the party in the mountains, but when you looked over your own location?

A. Oh, we all went up there together; we all started out together, went up on the hill together.

Q. All went out on the hills together?

A. Yes, sir.

Q. Were you in camp, all six of you?

(Testimony of A. E. Ehle.)

A. Yes, sir.

Q. Who else was there besides?

A. Mr. Jameson.

Q. Who else? A. That is all.

Q. Now, then, do I understand that when you went up to make the location that the whole party went with you?

Mr. WALSH.—We object to that as having already been answered by the witness and as leading.

A. Yes, sir, they all went with us, with my husband and I.

Q. How did you go?

A. Well, after we got to camp, of course we walked up to the claim.

Q. Walked up to the claim? A. Yes, sir.

Mr. WALSH.—We move to strike out repetition of counsel of the answer of the lady.

Q. How far were the claims from the camp?

A. I could not tell exactly how far they were.

Q. Could not say?

Mr. WALSH.—We object to the repetition by counsel of the answer of the witness.

A. No, sir.

Q. And the entire party walked the entire distance?

Mr. WALSH.—We object to that because it has already been answered by the witness and is a mere repetition.

A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. Now describe that country?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Well, all I know is it is quite hilly, that is all; I know nothing about it, quite rough roads.

Q. Rough roads? A. Yes, sir.

Mr. WALSH.—Now, we move to strike out the repetition of the answer of the witness by counsel.

Q. Is that the best description that you can give?

A. It is to my knowledge now; I don't remember it; I went a great deal after that around the country and don't remember what it all looked like, at the present time.

Q. Have you any recollection as to when you started up in the morning?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. I do not.

Q. No recollection as to when you returned?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. No, I don't exactly remember when we did return.

Q. Or any present recollection of what you did?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. No, sir.

Q. What did you say was done up there by anybody?

A. Well, I did say anything particular, only we

(Testimony of A. E. Ehle.)

walked over the ground and looked at the numbers; that is all I remember anything about.

Q. Had you ever been up to that location before?

A. Not exactly there, I never was.

Q. And when you left that place, that location, have you ever been back there since?

A. Not at that location, no, sir.

Q. Have you had any business experience with reference to timber in any way?

A. What do you mean?

Q. So far as buying and selling timber, have you had any personal experience in buying and selling timber?

A. I have not.

Q. Have you ever had any personal experience of any kind in running surveyor's lines? A. No, sir.

Q. So far as sections, ranges, townships, quarter sections, etc., are concerned, you have had no knowledge have you?

Mr. WALSH.—We object to that as leading.

A. Well, no, I have no knowledge about it; of course I don't know anything about land, running lines like a gentleman does.

Q. Do you remember how many days your party was up in the mountains? A. I do not.

Q. Have no memory on that subject?

A. I don't remember about how long we were there.

Q. Well, you don't mean just exactly that?

A. I don't remember how many days we were up there. I have forgotten how long we were up there, be-

(Testimony of A. E. Ehle.)

cause as I told you before we have been out a good many times on a trip, my husband and I, and I don't remember how long we were out then.

Q. I am not referring to the trips you made with your husband; I mean when you went up with your father.

A. Yes, I know what you mean, when we went up with my mother, father, brother in law and sister; I don't remember how many days we were there.

Q. Do you remember what you did after you came down from the mountains?

A. After I came home?

Q. Yes. A. I went to cooking for my husband.

A. Did you shortly thereafter go to Missoula for the purpose of filing.

Mr. WALSH.—We object to that as leading.

A. We went to Missoula with the witnesses to file; yes, sir.

Q. Have you any recollection of what you did in Missoula at that time?

A. Only I went there to file, that is all I remember, at the land office.

Q. No recollection of where you went other than to the land office? A. I went to the hotel.

Q. Anywhere else?

A. I don't remember of going any place else—might have went to church while I was there, I don't know.

Q. Did you go to Mr. Cobban's office?

(Testimony of A. E. Ehle.)

Mr. WALSH.—We object to that as leading.

A. I don't remember whether I did or not.

Q. Had you seen Mr. Cobban up to this time?

A. I don't think I had.

Q. Have you any recollection of going to Cobban's office? A. Yes, I have.

Q. Recollection of going there when?

A. Well, I don't know exactly when I went there, what day it was when I went there.

Q. Who did you go with?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Went with my husband.

Q. For what purpose?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Well, I went there to see about borrowing money of Mr. Cobban.

Q. You went yourself that trip?

A. My husband and I went together, yes, sir.

Q. Now fix the time as near as you can.

A. I don't know exactly the time; that would be impossible, because I could not fix the time exactly when it was.

Q. Do you know whether it was before or after you filed on the land?

A. That was after I filed on the land, because I did not know anything about Mr. Cobban or did not know

(Testimony of A. E. Ehle.)

him to my recollection, I did not know anything about Mr. Cobban.

Q. You did not know Mr. Cobban, nor Mr. Catlin, or Mr. Pound or any of the people?

Mr. WALSH.—We object to that as leading.

A. No, sir, I did not.

Q. Have you any recollection as to what took place when you saw Mr. Cobban the first time?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. I did not.

Q. What was said or done by anybody?

A. Well, no, not exactly, only we tried to see if we could not borrow the money of Mr. Cobban.

Q. Tell us just what you mean by that, what was said by anybody in your presence and in your hearing?

Mr. WALSH.—We object to that as hearsay.

A. Well, we went to see if we could not borrow money of Mr. Cobban to prove up on my land, on the land I took up, providing it was all right.

Q. Well, what was said now?

Mr. WALSH.—We object to that as hearsay.

A. Between who do you mean?

Q. Between yourself, or by yourself and husband and Mr. Cobban?

Mr. WALSH.—We object to that as hearsay.

A. I don't remember what was said.

Q. Don't remember anything about it?

(Testimony of A. E. Ehle.)

A. I don't remember only just what I have told you.

Q. Well, what was done?

A. There was not anything done that I know of

Q. Well, you went down to—at the time that you proved up on your first claim, did you not?

Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. Who did you go with?

A. My husband and the rest of the folks.

Q. Did you prove up? A. No, sir, I did not.

Q. Why?

A. Because I could not borrow money on the claim.

Q. How did you find that out?

A. Well, they estimated the timber and there was not enough timber on it to borrow any on.

Q. Who told you that?

A. Mr. Cobban advised me not to take because he would not loan any money on it.

Q. For what reason?

Mr. BICKFORD.—We object to that because the reason has already been stated by the witness.

A. Because it was no good.

Q. So, when Mr. Cobban told you that then you dropped the whole matter? A. Yes, sir.

Q. Then do you recall any of the facts and circumstances connected with your second location?

A. No, sir, only we were talking with Mr. Kilburn, and he told us of these claims up by the lake.

Q. Who?

(Testimony of A. E. Ehle.)

A. Mr. Kilburn told us of these claims up by the lake.

Q. How many were there? A. I don't remember.

Q. Whereabouts was Mr. Kilburn when he told you that? A. Whereabouts was the claim?

Q. Whereabouts were you when he told you that?

A. I don't remember whether I was in Mr. Cobban's office or not; I don't remember where it was he told me; I was asking him about claims and he told me of this one.

Q. And how long after that was it before you went up to look at it? A. After that?

Q. After Kilburn told you about these clams?

A. I don't remember how long it was after he told me; I could not tell exactly how long it was.

Q. Do you remember who you went with?

A. To see the claim?

Q. Yes.

A. Why, papa; well, I was on the claim before that, too; we all went up together, my brother in law and husband.

Q. When you went up to look at this second claim?

A. Yes, sir.

Q. Do you know where it was?

A. Well, it was near the lake.

Q. Near what lake?

A. I have forgotten the name of the lake.

Q. They all went with you onto the land, did they?

A. Yes, sir.

Q. Who went with you?

Mr. WALSH.—We object to that because the witness

(Testimony of A. E. Ehle.)

has already answered the same question twice.

A. Mr. Ehle, my father and brother in law.

Q. And no one else?

Mr. WALSH.—We object to that as leading.

A. No, sir.

Q. Were there not any ladies along this time?

A. No, sir.

Q. Did you camp out this time?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Certainly we did.

Q. How long did you stay in camp?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. I don't remember how long we were in camp.

Q. Do you remember what the men did?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. No, I don't exactly remember what they did so.

Q. Were they hunting?

Mr. WALSH.—We object to that as irrelevant and immaterial, and as leading.

A. Don't remember whether they were hunting or not.

Q. Don't remember whether they were hunting or not?

A. No, sir.

Q. You don't know how long you stayed in camp?

Mr. WALSH.—We object to that as irrelevant and im-

(Testimony of A. E. Ehle.)

material, and for the further reason that it has already been answered by the witness.

A. No, I do not know.

Q. Nor what you did?

Mr. WALSH.—We object to that as irrelevant and immaterial, and for the further reason that it has already been answered by the witness.

A. I went over the land, that is, about all I do remember.

Q. Who went with you at the time you located the land?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. The time we were up there, you mean?

Q. You have stated the people that were up there in the mountains with you, now I ask you who went with you to look at this particular location?

A. Oh, my husband and I went together.

Q. How far was this particular location from your camp?

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. I don't remember.

Q. Do you remember whether you walked or not?

A. I certainly walked to the claim from the camp, but I don't remember how far it was.

Q. And went with your husband?

(Testimony of A. E. Ehle.)

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. Yes, sir.

Q. Can you tell me how long you were gone?

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. I cannot.

Q. Who was doing the cooking in camp?

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. In the camp?

Q. In the camp, yes?

A. Why, I don't know who was doing the cooking?

Q. Did you have anything to do with it?

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. Certainly, I did the cooking after I got back; I did my own cooking, most assuredly.

Q. When you got back where, after you got back where? A. Over to the ground.

Q. You mean at home?

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. No, sir, up at camp.

Q. Then, did you get all the meals?

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. Why, I certainly did.

(Testimony of A. E. Ehle.)

Q. Was it between breakfast and dinner or dinner and supper?

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. I don't remember.

Q. Do you remember whether you went to more than one?

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. Yes, sir, I had been on the claim twice.

Q. When did you go the second time?

Mr. WALSH.—We object to this as irrelevant and immaterial.

A. The time my father, my brother in law, and my husband were along.

Q. When was that?

A. When we went up to look at it, when they all went up with me to look at it.

Q. You have stated, Mrs. Ehle, that you and your husband went alone over the country to look at the particular location that you took up, haven't you?

A. Yes, sir.

Q. Now, then, did you go again to this location?

A. My husband and I went up first, before we knew anything about this claim; we were on the claim before we knew anything about it; then my husband, my father and brother in law went up again on the very claim that we were on before, but we did not know anything about that

(Testimony of A. E. Ehle.)

we could take up this claim until we went up the second time; when we were out on the first trip we were out there just hunting and looking around the country.

Q. Do I understand that you and your husband were looking around hunting, after Kilbourn had told you of this location?

A. No, sir, we were up in that country before I seen Kilbourn, before he ever told me of this location.

Q. That is the time you previously referred to in your testimony, isn't it; when you and your husband were up looking for a claim?

A. The second time, you mean—do you mean the second time we were up?

Q. The second time you were out?

A. That Mr. Ehle and I went up, you mean on this second time?

Q. Yes, ma'am?

A. We went up when Mr. Reeve and my brother in law went?

Q. You have already testified to that; you have left that long ago? A. Yes.

Q. You testified to that in connection with your first claim which Mr. Cobban rejected. I am asking you now in regard to the facts and circumstances of your second claim that Mr. Kilbourn told you about?

A. Yes, sir.

Mr. WALSH.—What is the question?

Q. You understand that, don't you?

A. I don't understand the question.

(Testimony of A. E. Ehle.)

Q. Now, Mrs. Ehle, I would like to have you understand that I am not asking you about the facts and circumstances connected with your location of the hundred and sixty acres of land that you finally got a deed to.

Mr. WALSH.—Now, he has not asked you any question.

Q. Do you understand that? A. Yes, sir.

Q. The one Mr. Kilbourn told you about?

A. Yes, sir.

Mr. BICKFORD.—We want the record to show that the witness has already testified concerning going to this land on two separate occasions; once with herself and husband, and once with her father, brother in law and husband; on the second occasion she having explained that in the first place when she was with her husband that they did not take up a claim, did not know whether it was vacant land or not; and the second time when she went there for the purpose of locating a claim.

Mr. MAYNARD.—We move to strike that out entirely, because the purpose was obvious to lead the witness.

Q. Now, then, I ask you—all the questions I shall put to you for the time being are in regard to this second location?

Mr. WALSH.—There is no question now.

Mr. MAYNARD.—I wish her to understand me.

Mr. WALSH.—She understands you fully.

Q. Now, then, who did you go up into the mountains with to look for the Kilbourn location?

(Testimony of A. E. Ehle.)

A. I told you I went with my husband, father and brother in law.

Q. And you camped out there? A. Yes, sir.

Q. Then, after you were in camp with this party, who did you go to the location with?

A. My father, husband and brother in law, all went up there to—

Q. You said a moment ago that you and your husband went alone.

A. I said my husband and I went alone first before we knew anything about the location.

Q. Do you mean when you were up there in the mountains on this second trip?

A. No, sir, I meant before we went up to locate any at all, my husband and I were up there the fall before; we were on this very same ground.

Q. Then, I asked you if that was on the occasion that you have previously testified to when you and your husband were out driving and looking for claims?

A. No, it was not on that occasion; no, I didn't know anything about the ground at that time; didn't know it was vacant.

Q. How did you happen to be on this particular location with your husband, then?

A. We just happened to be up there, that is about all; he was out hunting around, hunting on that trp; we just happened to be on the ground. I recognizsl the ground after I went back again the second time.

Q. You mean while your husband was up on the mountains hunting you had been with him?

(Testimony of A. E. Ehle.)

A. No, I did not go clear up on the hill, not away back; I went part of the way up the hills with him; I was on this same ground.

Q. You say your husband was hunting at that time?

A. At that time, yes, sir.

Q. And what were you doing?

A. I was running around camp having a good time by myself.

Q. You were running around camp having a good time by yourself? A. Yes, sir.

Q. And your husband was hunting?

Mr. WALSH.—We object to this and move to strike it out as being a mere repetition.

A. Certainly.

Q. Did you have a camp at that time?

Mr. WALSH.—We object to that as irrelevant and immaterial and leading.

A. Not any particular camp that I know of; we were stopping at the time, I forget the name, whose camp it was; it was a camp once, we were stopping there.

Q. How long a time was it with reference to the time that you located?

A. The time we all went up to locate after Mr. Kilbourn told us?

Q. Yes, how long a time had intervened?

A. Oh, I guess it was two months. I won't say for certain, but I rather think it was.

Q. You think it was about two months before that?

A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. Well, now, what was there at the time when your husband was up hunting and you were in the camp having a good time, as you say, to fix this description upon your mind?

A. Why, nothing in particular that I know of.

Q. Well, was there anything at all of any kind?

A. No, I cannot say there was; I don't know of any.

Q. How did it differ from the hundred and sixty acres adjoining it?

A. I don't know how it differed; I did not take any particular notice of it.

Q. Of course, you did not.

Mr. WALSH.—We move to strike out the statement of counsel.

Q. It was on the mountain side?

Mr. WALSH.—We object to that as leading.

A. Yes, it certainly was on the mountain side.

Q. Certainly.

Mr. WALSH.—We move to strike out the statement of counsel.

Q. When you said you went up there to go on the Kilbourn location what was there about it that enabled you to say you had been there before, except the mere general statement that you had been in that vicinity while your husband was hunting?

A. Well, there was nothing, only I had been all over around in there, running around the hills with my husband, and I did not see anything in particular that attracted my attention to this one particular piece.

(Testimony of A. E. Ehle.)

Q. All the others in the party had filed, hadn't they, and deeded at this time?

Mr. WALSH.—We object to that as leading and as immaterial and irrelevant.

A. I don't remember whether they had or not.

Q. Can you state any reason why the party went along? A. They were my witnesses.

Q. They were your witnesses? A. Yes, sir.

Q. That was your father—did your father walk up there? A. He certainly did.

Q. Are you able to state how far it was from the camp?

Mr. WALSH.—We object to that because the witness has already stated that she does not know.

A. I don't know.

Q. Was it a mile?

A. I can't really say how far it was?

Q. Did your mother go?

A. My father and husband went; my sister did not go.

Q. Or your father; your husband and your sister?

A. No, sir.

Q. Well, who did go?

Mr. BICKFORD.—We object to this because the witness has already answered the questions several times.

A. My father, brother in law and my husband.

Q. How many times did you make the trip?

(Testimony of A. E. Ehle.)

A. I was up there just once; that is we all together was once that I told you.

Q. Now, then, coming back again, that was between meals on one day?

Mr. BICKFORD.—We object to this as leading because the witness has not so stated.

A. I never said that.

Q. Well, is it so?

Mr. WALSH.—We object to this as leading.

A. I don't remember.

Q. You don't remember?

A. Yes, it was between meals; it certainly was.

Q. Now, then, can you state just what these men did when you got up there?

A. Well, first we went on the land, went over the land.

Q. Went on the land, when over the land?

A. Yes, we went over the claim.

Q. And what else?

A. Why, I don't remember what else was done.

Q. Did you see anything else done?

A. I don't remember of anything else being done at that time.

Q. Was there any snow on the mountain sides at the time?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Yes, sir, there was snow there.

Q. There was? A. Yes, sir.

(Testimony of A. E. Ehle.)

Q. Well, you did not do much walking through the snow on that mountain side, did you?

Mr. WALSH.—We object to that as leading, irrelevant and immaterial.

A. I walked all over the land.

Q. Walked all over the one hundred and sixty acres on that mountain?

Mr. WALSH.—We object to that as leading, irrelevant and immaterial.

A. Yes, sir; mostly.

Q. Through the snow?

Mr. WALSH.—We object to that as leading, irrelevant and immaterial.

A. Yes, sir.

Q. For what purpose did you do that?

Mr. WALSH.—We object to that as being irrelevant and immaterial.

A. Well, so as to convince myself that it was not taken up.

Q. To convince yourself that it was not taken up?

Mr. BICKFORD.—We object to the repetition of the answer of the witness by counsel.

A. Yes, sir.

Q. How could you convince yourself that it was not taken up by walking over it?

A. Well, I don't know anything about it; I don't remember how that would be.

Q. What were the men doing?

(Testimony of A. E. Ehle.)

A. They were with me.

Q. They were with you? A. Yes, sir.

Q. What did they do after you had finished walking around it?

Mr. BICKFORD.—We object to that as immaterial.

A. I don't remember what they did.

Q. Did your old father walk around all over that hundred and sixty acres?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Why, he certainly did.

Q. You are sure there was no one else present except your three relatives that you have now spoken of?

Mr. BICKFORD.—We object to that as being irrelevant, immaterial and as leading.

A. Yes, sir.

Q. Mr. Griswold was not there? A. No, sir.

Q. Nor Mr. Jameson? A. No, sir.

Q. Nor Mr. Kilbourn? A. No, sir.

Q. Nor anybody else? A. No, sir.

Q. How long afterwards did you file on the claim?

A. I don't remember how long it was; it was a few days afterwards, I guess; I don't remember how long we were up there.

Q. And you went to Missoula for the purpose of filing, did you?

Mr. WALSH.—We object to that as leading.

A. Yes, sir, I went there with the intention of filing.

(Testimony of A. E. Ehle.)

Q. Did you file?

A. I did file on that claim, yes, sir.

Q. Whereabouts? A. Helena.

Q. Who did you come to Helena with?

A. Myself.

Q. I am glad to hear that.

Mr. WALSH.—We move to strike out of the record the statement of counsel as not being pertinent to any issue in the case.

Q. Did you come alone?

A. I did come alone.

Q. Nobody came with you at the time of filing?

Mr. BICKFORD.—We object to that as leading, irrelevant and immaterial and as a repetition.

A. They did not.

Q. Do you remember what you did after you got here to Helena?

A. No, I do not remember what I did do, only to go to the land office and file.

Q. What did you file?

A. I filed on that claim.

Q. Did you have the paper with you?

Mr. BICKFORD.—We object to that as leading.

A. I don't remember whether I had the paper with me or not.

Q. You don't remember that?

Mr. BICKFORD.—We object to that as leading.

A. No, I don't remember.

(Testimony of A. E. Ehle.)

Q. Well, you say you came here and filed, do you remember anything that you did?

Mr. WALSH.—We object to this because the question has already been asked and answered; she said she went to the land office.

A. I don't remember anything, only I went to the land office and filed.

Q. What do you mean by that, that you went to the land office and filed.

A. Why, I filed on this claim.

Q. What did you do?

A. Well, I don't remember what I did.

Q. What?

A. I don't exactly remember.

Q. Hadn't you been to Cobban's office before you came here?

Mr. BICKFORD.—We object to that as leading.

A. I don't think I was.

Q. You don't think you was? A. No, sir.

Q. Will you say that you was not?

Mr. BICKFORD.—We object to this as leading.

A. No, I won't say I was not, because I don't hardly think I was; I don't remember.

Q. There is your husband's statement, Albert Ehle; have you any recollection of signing a statement like that?

A. Do you mean here in Helena?

Q. Anywhere? A. Yes, sir.

Q. Where did you sign such a statement?

(Testimony of A. E. Ehle.)

A. In Helena.

Q. In Helena? A. Yes, sir.

Q. Have you any recollection of such blanks as this being filled out by anybody?

A. No, I don't remember who filled them out, but I remember of seeing such blanks.

Q. You don't know whether they were filled out in Missoula or not, do you?

A. I am sure I don't know.

Q. You are sure you don't know?

A. I don't remember whether they were filled out in Missoula or Helena; I don't remember.

Q. Mrs. Ehle, can you remember as to whether or not when you came here from Missoula, left your home, went to Missoula, and came here to Helena for the purpose of filing, whether you brought a statement like that with you or not?

Mr. WALSH.—We object to this as leading and because the question has already been answered.

A. I don't remember whether I brought a paper like that with me or not; I don't remember whether I did or not, and I could not say.

Q. Have you any recollection of going anywhere, to any office, except the land office? A. No, sir.

Q. You are sure of that?

A. I am sure of that.

Q. Well, now, then, if it is positively against the law of the United States for the officers in the land office to fill out such a statement as that and they could not do

(Testimony of A. E. Ehle.)

it legally, what would you say then as to whether or not you had it filled out for you before you left Missoula?

Mr. BICKFORD.—We object to this question because it is not positively against the law of the United States or any law, and in the next place it simply calls for a conclusion of the witness and not her recollection of any fact.

Mr. MAYNARD.—Now, I state that it is absolutely and positively prohibited by law for the register or the receiver of the land office to fill out these papers.

Mr. WALSH.—We move to to strike out the statement of counsel in reference to the matter.

A. As I said before I don't remember anything about when it was made out.

Q. Have you any recollection of any kind of any paper being delivered to you previous to your starting for Helena by anybody?

Mr. BICKFORD.—We object to this as leading.

A. I do not, as I said before, I do not remember; there may have been a paper given to me, but I do not remember whether it was or not before I left Missoula; I do not remember anything about it.

Q. Have you any recollection of having any knowledge of the description of the land?

A. No, I don't have any recollection of the description of the land.

Q. Did you pay any money into the land office?

Mr. BICKFORD.—We object to this as leading.

(Testimony of A. E. Ehle.)

A. I did not.

Q. Do you know how much the trip cost you?

A. No, sir, I do not know exactly.

Q. Do you know who bought the railroad ticket?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I bought it myself, or my husband did.

Q. Do you know where the money came from?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Why, I certainly do.

Q. Where did it come from? A. My husband.

Q. Where did he get it?

A. I didn't ask him where he got the money.

Q. And you don't know?

A. I did not take the pains to ask him where he got the money.

Q. That ain't the question I asked you. I ask you if you don't know where he got the money?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. No, I don't know where he got it unless he worked for it.

Q. There was nothing said at all by anybody about his having borrowed twenty dollars from Mr. Cobban?

A. I don't know; I don't think he got twenty dollars from Mr. Cobban; I didn't see anything of the twenty dollars; that is not the twenty dollars I took and came over here with; he worked all the time, my husband did.

(Testimony of A. E. Ehle.)

Q. What twenty dollars was it that you took?

A. I didn't take twenty dollars that I know of.

Q. How much did you have?

A. I had enough to pay my expenses over here and back again?

Q. And no more? A. No, I did not.

Q. Then you don't know whether you paid any money into the land office or not?

Mr. WALSH.—She has answered it positively for you.

A. I said I did not.

Q. Now, who came at the time of your proving up?

A. Who came here to Helena?

Q. Yes.

A. My husband and father and myself.

Q. Who were your other witnesses?

Mr. WALSH.—If the lady does not remember I ask that her recollection be refreshed before she is interrogated about it.

Q. You don't know who they were?

A. I don't know who they were, only my father and husband; I don't remember who the rest were.

Q. Well, you gave the names, didn't you, of your witnesses?

Mr. BICKFORD.—We object to that as leading and presupposing an answer having heretofore been given by the witness which has not been testified to by her.

Q. Didn't you give the names of your witnesses?

Mr. BICKFORD.—We object to that as leading and

(Testimony of A. E. Ehle.)

presupposing an answer having heretofore given by the witness which has not been testified to by her.

A. This morning?

Q. I mean at the time that you filed?

A. I certainly did.

Q. Can you remember them?

A. No, sir, I can't.

Q. Do you know who gave them to you?

Mr. BICKFORD.—We object to that because it presupposes somebody did give them to the witness, when as a matter of fact no such testimony has been given.

A. There didn't anybody give them to me that I know of.

Q. How did you get them?

A. Just picked out the witnesses.

Q. You just picked out the witnesses yourself?

A. We called them up, yes, sir.

Q. We called them out?

A. I picked out the names, I certainly did.

Q. Now, who did you pick out?

Mr. BICKFORD.—We object to that for the reason that the witness has already testified that she does not know.

Mr. MAYNARD.—She says she picked them out herself; now, I wanted to know who she picked out?

A. My father and Mr. Ehle and the other two, I don't remember who they were.

(Testimony of A. E. Ehle.)

Q. Can you give me a reason why you should remember two and forget two?

Mr. BICKFORD.—We object to that because the witness is not called upon to give reasons for forgetting a fact, or remembering a fact, or forgetting the names of two persons and remembering two others.

A. I certainly can.

Q. What is the reason?

Mr. BICKFORD.—We object to that for the reason that the witness is not called upon to give reason for forgetting a fact or remembering a fact, or for forgetting the names of two persons and remerbering two others.

A. My husband—of course, I was well acquainted with my husband; another thing, I know my father pretty well; the other two I don't know.

Q. Do you remember what you did when you returned from Helena at the time of your proving up with father and husband?

A. No, sir, I do not remember.

Q. You don't remember that?

A. No, I don't remember what I did do.

Q. Do you remember the fact of selling this land to Mr. Cobban?

A. Do I remember of selling it to Mr. Cobban?

Q. Yes. A. I certainly do.

Q. When was that in connection with your return from Helena?

(Testimony of A. E. Ehle.)

A. It was not until after I proved up, after I proved up I sold my claim to Mr. Cobban.

Q. How soon after your return from Helena?

A. Oh, it was two or three days, I guess.

Q. Do you know when you did sell?

A. Do I know exactly when?

Q. Yes. A. No, I do not.

Q. Where were you living then?

A. In Missoula.

Q. In Missoula? A. Yes, sir.

Q. How long did you stay here in Helena after you proved up before you returned to Missoula?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I don't think—I think I left the next day.

Q. You think you left the next day?

A. Yes, sir.

Q. Who went with you?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. My husband went with me.

Q. Nobody else?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. No, sir.

Q. Did you go to Mr. Cobban's office the same day you returned from Missoula?

Mr. BICKFORD.—We object to that as leading.

(Testimony of A. E. Ehle.)

A. If I did I don't remember it.

Q. Have you any recollection about it.

A. No, no further than that. I don't think I went to the office; that is all I remember about it. I don't think I did the next day after I got home.

Q. Well, give us your best recollection as to when you did go to Mr. Cobban's office and sell your land?

Mr. WALSH.—She has already answered that question.

A. It was two or three days after I got back home.

Q. Two or three days after you returned home?

A. I could not say exactly when it was.

Q. Who paid your expenses to Helena the time when you proved up?

Mr. BICKFORD.—We object to that for the reason that she has already testified to that.

A. Why, I paid myself—my husband.

Q. The second time I am now referring to?

A. When I came to Helena to prove up, you mean?

Q. Yes. A. I paid it myself?

Q. You did? A. Yes, sir.

Q. Your railroad expenses? A. Yes, sir.

Q. Your hotel expenses? A. Yes, sir.

Q. You paid it yourself? A. Yes, sir.

Q. Who paid the money into the land office for the purchase of the land?

A. It was arranged with Mr. Cobban; I borrowed the money of Mr. Cobban, and it was arranged with Mr. Cobban to send it over and pay it in?

(Testimony of A. E. Ehle.)

Q. It was arranged with Mr. Cobban to send it over?

A. Yes, sir.

Q. So that you did not get it yourself?

A. I did not have the money in my hands myself, no, sir. I arranged it with Mr. Cobban to pay it in for me if I borrowed it.

Q. Do you know how he sent it over?

A. I do not.

Q. What is your recollection of what took place at the time you gave your final testimony?

A. The proving up, you mean?

Q. Yes.

A. There was nothing took place that I know of; there was a paper read to me. I do not remember now what it was exactly.

Q. Paper read to you?

A. Well, it was something about something. I don't know what it was read to me now the second time.

Q. That was probably what we call your testimony at the time, filled in some blanks, did you, some questions were asked you by the officers there?

A. Yes, sir.

Q. Some blanks filled in and you swore to it?

A. Yes, sir.

Q. Now, can you remember anything else?

A. No, sir; I cannot remember anything else that happened that day.

Q. Can you remember as to whether or not you received any paper or got any paper?

(Testimony of A. E. Ehle.)

A. No, I do not remember.

Q. Now, then, the money you don't know whether that was paid in or not; except as Cobban told you that he would arrange for it, would send it over?

Mr. BICKFORD.—We object to this as leading.

A. I am pretty sure Mr. Cobban sent it over; I had no way to doubt his word at all.

Q. Now, then, have you any recollection of any money that you had paid out up to this time other than your railroad expense and hotel expenses in coming here twice? A. I do not.

Q. Have you any recollection as to the amount of money that you received from Mr. Cobban when you sold your land to him?

A. I do not remember exactly now how much I received.

Q. Do you remember who was present?

A. My husband was.

Q. Anybody else? A. No, sir.

Q. Do you remember how you received your pay from Mr. Cobban?

A. How I received my pay?

Q. Yes. A. In a check.

Q. On what bank was it?

Mr. BICKFORD.—We object to that because the check is the best evidence.

A. I don't remember what bank it was now. I was not familiar with the names of the banks then in Missoula.

(Testimony of A. E. Ehle.)

Q. Was it made payable to your order?

A. I don't remember; I think it was.

Q. Do you remember of doing anything with the check?

A. I went and had it cashed.

Q. Went to the bank and had it cashed?

A. Yes, sir.

Q. How long after you got the check?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I could not say as to that. I could not say as to whether it was right away or two or three hours after that; I could not say, don't remember.

Q. Was it the same day?

A. Yes, sir, I think it was.

Q. Did your husband go with you?

A. Yes, sir.

Q. And you got your money? A. Yes, sir.

Q. Now, how much was it?

A. I don't remember how much it was.

Q. Just what do you mean by that?

A. Well, I don't remember the amount of the check; how much the check amounted to. I know I went and had the check cashed, but I don't remember how much it was just now.

Q. Was it two hundred dollars, as much as two hundred? A. No, I don't think it was.

Q. Was it as much as a hundred and fifty?

A. Well, I don't remember how much it was.

(Testimony of A. E. Ehle.)

Q. Is it possible that you cannot tell me how much money you got on that check?

Mr. BICKFORD.—We object to that for the reason that the witness has already answered.

Q. And that you are compelled to say that you can't remember anything about it?

Mr. BICKFORD.—We object to that for the reason that the witness has already answered.

A. I certainly cannot remember how much I got of that check; if I did I would certainly tell you.

Q. Was it over or under one hundred and fifty dollars?

A. I don't know, I tell you. I don't remember the exact amount.

Q. Can you answer that question?

A. Why, I think it was under a hundred and fifty, but I don't know the exact amount I got from it; I don't remember.

Q. You think it was under a hundred and fifty dollars?

A. I think it was, most assuredly.

Q. Now, how much under a hundred and fifty dollars?

A. I don't know, I have forgotten.

Q. Will you swear that it was over one hundred and twenty-five dollars?

A. I won't swear to it, because I don't remember how much, whether it was or not. I know it was one hundred and fifty, of course, but I don't remember how much under that.

Q. Will you swear that that is the nearest you can come to it now, that it was under a hundred and fifty dollars?

(Testimony of A. E. Ehle.)

Mr. WALSH.—We object to all these questions as leading.

A. I certainly will.

Cross-examination.

(By Mr. BICKFORD.)

Q. You are a citizen of the United States, Mrs. Ehle?

A. Yes, sir.

Q. And in the year 1899 you were over twenty-one years of age? A. Yes, sir.

Q. Have you ever taken up a timber and stone entry; prior to the one you made your final proof upon?

A. No, sir.

Q. The timber and stone entry that you did make, you made an examination of the land to satisfy yourself as to the character of the land, didn't you? A. Yes, sir.

Q. Was the land that you so entered more valuable for timber and stone than it was for agricultural purposes?

A. Yes, sir, it was more valuable for timber.

Q. Did it have any value as a matter of fact for agricultural purposes? A. It did not.

Q. You satisfied yourself to that effect before you went to the land office to make your filing, did you?

A. Yes, sir.

Q. Now, at the time when you made your filing in the United States land office you testified that the land contained mining improvements? A. Yes, sir.

Q. It did not contain any such improvements, did it?

A. No, it did not.

Q. Was it more valuable for any mineral deposit, gold,

(Testimony of A. E. Ehle.)

silver, copper, cinnabar, coal, tin, lead or anything of that kind? A. No, sir.

Q. No indications of any of these minerals on there, so far as you could ascertain? A. No, sir.

Q. At that time you testified, or at least you swore before the land office that you had made no bargain or agreement by which the title that you had acquired from the Government of the United States should inure in whole or in part to the benefit of any person except yourself. Was that true? A. Yes, sir.

Q. There was no contract existing between you and any other person of that kind, by which the benefit of your entry should inure to the benefit of anyone but yourself?

A. No, sir, there was not.

Q. Was there any reason at that time why you should not make a timber and stone entry under the laws of the United States? A. There was not.

Q. Then, having made your entry to the land and advertising the proper length of time you came to the land office in Helena and made your final proof?

A. Yes, sir.

Q. Now, when you appeared with your witnesses to make final proof, had you made any bargain, agreement or contract, by the terms of which the land was to be sold to anybody else? A. I had not.

Q. Had you made any contract and agreement by which the title that you might acquire from the United States either to the land or to the timber thereon should inure to the benefit of anybody except yourself?

(Testimony of A. E. Ehle.)

A. I had not.

Q. Then at the time when you made your final proof it was your belief that the land belonged absolutely to you?

A. Yes, sir.

Q. When you had paid for it? A. Yes, sir.

Q. You received at that time, I suppose, from the register and the receiver at the land office a final certificate showing that you had paid for the land?

A. I think so, yes, sir.

Q. Now, in making your final proof you were also asked this question, "Do you make this entry in good faith for the appropriation of the land exclusively to your own use, and not for the use or benefit of any other person?" Did you appropriate the land for your own use?

A. Yes, sir.

Q. You answered the same way when you made your final proof in the land office, did you?

A. Yes, sir.

Q. You answered, also, that no other person than yourself, or any firm, corporation, or association had any interest in the entry that you then made, or in the land or timber thereon? A. Yes, sir.

Q. You answered that they had no such interest?

A. They had no such interest at all.

Q. Had you made any promise or agreement to convey to anybody? A. I had not.

Q. Had you made any promise or agreement to convey to Mr. Cobban specially? A. No, sir.

Q. As a matter of fact, there was no business relationship then existing between you and Mr. Cobban, except the

(Testimony of A. E. Ehle.)

relationship which was created by reason of your having borrowed money of him? A. That is all there was.

Q. You were at liberty to sell to any other person whom you might choose? A. Yes, sir.

Q. Did you ever make any inquiries or that sort of thing to find out whether you could sell the land to anybody else? A. No, I did not.

Q. Then you sold to Mr. Cobban because you thought he was paying you what the land was reasonably worth?

A. Yes, sir.

Q. Now, I believe you stated, also, in your testimony in chief that you did not know Griswold at the time when you made this filing on the land; did you know C. L. Griswold at that time?

A. No, I did not see Mr. Griswold.

Q. Had no conversation with him about this land?

A. No, sir, I did not.

Q. Did you have any talk with Albert Jameson about the land or about selling it?

A. No, sir.

Q. You knew Albert Jameson, didn't you?

A. I knew him just by sight; never had any talk with him, not on land.

Q. On land, Mrs. Ehle, you never had any talk with hm at all? A. No, sir.

Q. Ever mention the fact that you were making the land entry and proposed to sell it to him or any of his friends?

A. Not this claim, no, sir.

(Testimony of A. E. Ehle.)

Q. Albert Jameson was not with you at the time when you made your second selection of a piece of land, was he?

A. No, sir, he was not.

Q. You never had any talk with him about that piece of land at all? A. No, sir.

Redirect Examination.

(By Mr. MAYNARD.)

Q. How long had you known Mr. Kilbourn?

A. How long have I known Mr. Kilbourn?

Q. Yes, previous to your meeting him in Cobban's office?

A. About a year, I guess. I think it was about that long.

Q. How many times had you met him during that year?

A. I could not state how many times I have met him—several times, quite a number of times.

Q. Have talk with him in regard to locations?

A. No, sir.

Q. No talk with him? A. No, sir.

Q. Never had any talk with him previous to your meeting him in Cobban's office? A. Never had, no, sir.

Q. Nor since?

A. No, sir; I have not had any occasion to talk with him.

Q. Are you sure that was Mr. Kilbourn that you had this talk with at the time you were told by Mr. Cobban he would not take your first claim?

A. No, sir, it was Mr. Kilbourn.

(Testimony of A. E. Ehle.)

Q. You felt badly at the time; disappointed because your first location didn't go?

A. Oh, I don't know as I felt very bad over it.

Q. Do you know Mr. Griswold over there (indicating)?

A. I know him slightly.

Q. How long have you known him?

A. I could not say; it is not very long.

Q. Two, three or four years?

A. I have known him about two years. I don't know him very well—just know him to speak to, that is about all.

Q. Did you see him in Mr. Cobban's office on that day?

A. No, sir, I did not.

Q. Didn't he at that time and place tell you not to feel badly about it? A. No, sir, he did not.

Q. That he would locate you on a description; give you a description? A. No, sir.

Q. Wasn't it Mr. Griswold rather than Mr. Kilbourn?

A. It certainly was not. It was Mr. Kilbourn; I think I know the two men apart.

Q. You swear to that? A. Yes, sir.

Q. You had no talk with Mr. Griswold at that time and place in regard to the matter? A. No, sir, I had not.

Q. You wish that to be positive without any chance of mistake? A. Yes, sir.

Q. You did not know or had no idea at all of selling to Mr. Cobban until after you returned from Helena from proving up?

(Testimony of A. E. Ehle.)

A. No, sir, I did not have any idea that I was going to sell to Mr. Cobban.

Q. Didn't know he was buying?

A. I knew he was buying timber claims, but I never made any bargain with Mr. Cobban to sell my claim to him.

Q. Nothing was said about it?

A. No, sir, there was not.

Q. Not a word? A. No, sir.

Q. By anybody? A. No, sir.

Q. You didn't hear your father nor your mother nor your brother in law nor your husband say anything about it?

A. Not anything about my claim; no, sir; that I could sell it to them, or ever tried to sell it, or ever thought of selling it.

Q. You know, as a matter of fact, that each and every one of them had previously conveyed to Mr. Cobban at the time?

Mr. BICKFORD.—We object to that as leading.

A. I don't remember whether they had at that time or not.

Q. You don't remember that?

A. No, sir, I don't remember whether they had sold at that time or not.

Q. You had no knowledge on the subject?

A. I don't remember whether I had or not.

Q. Do you wish to be understood as swearing now that at the time you conveyed to Cobban that you had not heard

(Testimony of A. E. Ehle.)

and did not know that all the other relatives that I have spoken to you about that had made entries had already sold to Cobban?

Mr. WALSH.—She has already answered this question.

Mr. MAYNARD.—I will thank her to answer it again.

A. I don't remember whether they had sold at that time or not.

Q. If they had, as a matter of fact, already, all of them, sold to Cobban, you now wish to say that you have no recollection of that fact?

A. I have no recollection whether they sold at that time or not.

Q. And hadn't talked to them about it?

A. No, sir, had not.

Q. No talk with any of them; that you could sell your claim to Cobban? A. No, sir, I had not.

Q. Well, how was it that you straight away after you returned from Helena, within two or three days, as the case may be, went to Cobban's office and did sell to him?

A. I simply went there to see if he would buy it.

Q. You had conversed with him in regard to it before, hadn't you?

A. Not about selling it to him, no, sir.

Q. Not at all? A. No, sir.

Q. Nothing had been said in any way?

A. No, sir, there hadn't.

Q. There wasn't anything said by him or anybody for him that when he said he would send the money over

(Testimony of A. E. Ehle.)

to pay for your land, that you were not to do anything at all? A. No, sir, there wasn't a word said.

Q. Nor any understanding?

A. No, sir, there wasn't any understanding.

Q. And you did not expect at the time you made your final proof to sell to Cobban by anything that had been said or done, anything that had been given you to understand?

Mr. BICKFORD.—We object to all this as leading and because it has already been answered?

A. No, sir.

Q. Now, you swear that you did not know that your husband had already sold to Cobban?

A. I do not remember whether he had sold at that time or not?

Q. You were arrested for perjury, were you not, on this very matter?

A. Well, I don't remember whether it is perjury. They called it perjury; I am positive it was not perjury; I had not perjured myself.

Q. Well, you were arrested and charged with it, were you not? A. Yes, sir.

Q. You do remember that? A. Yes, sir.

Q. (Mr. BICKFORD.) Did you know the gentleman upon the other side was the attorney who got the grand jury to return the indictment—did you know that this gentleman who has just been interrogating you was the man who got the indictment returned by the grand jury?

(Testimony of Mrs. Nellie Ehle.)

A. No, I did not know it, but I guess he was.

Mrs. NELLIE J. EHLE.

Subscribed and sworn to before me this 24th day of March, A. D. 1902.

HENRY N. BLAKE,
Examiner.

Mrs. NELLIE J. EHLE, being recalled for further examination, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Now, Mrs. Ehle, I just want to ask you one or two questions, so as to make clear some misapprehension that I had of the testimony. I thought that your father in law had paid for all five of you. Now, what I want to know is, at the time that you got this money from Mr. Cobban, did you receive it yourself, or did your father in law receive it?

By Mr. WALSH.—We object to this line of testimony for the reason that the witness has already testified fully concerning it.

A. I received it myself.

Q. That is, Mr. Cobban paid you the money.

A. Well, he gave me a check.

Q. I mean—I am not referring to that; I am referring to the money that was paid into the land office for your land.

A. Mr. Cobban, or someone else, I don't know how it

(Testimony of Mrs. Nellie Ehle.)

was; sent there, I expect; Mr. Pound, or went there himself, and sent it over to Helena. Over to Helena, that is, as I stated it before in my other statement.

Q. Previous to your leaving Missoula for Helena, did you give Mr. Cobban a mortgage on your place?

A. I don't remember.

Q. On the land, I mean.

A. I don't remember whether I did or not.

Q. Do you remember whether you gave him a note or not? A. No, sir, I don't remember.

Q. You don't remember anything about that?

A. No, sir, I don't remember.

STIPULATION.

It is hereby stipulated between the counsel for the respective parties that the testimony of the witness, Nellie J. Ehle, contained in this and the foregoing page, may be read over and corrected by the Examiner, and when so read over and corrected by him, may be certified to be correct and have the same force and effect as if corrected, signed and sworn to by the witness.

CERTIFICATE.

I hereby certify that the testimony of the witness, Nellie J. Ehle, given when recalled to the stand this day, has been correctly transcribed by the stenographer.

HENRY N. BLAKE,
Examiner in Chancery.

At this point, Mr. Maynard, counsel for the Government, called to the stand one JOHN H. COLE, and thereupon the following occurred before the Examiner.

By Mr. BICKFORD (to Mr. Cole).—You are not from Idaho, are you, Mr. Cole?

By Mr. COLE.—No, sir, I am not.

By Mr. BICKFORD.—The only stipulation that had been entered into with me was that we were to continue this hearing for you to put in your Idaho witnesses, and there is no stipulation covering any other witnesses. There is no other stipulation that I know, and this man is not from Idaho. He is not from Idaho, and he is not an Idaho witness, and we insist now that he has no right to testify whatever.

By Mr. MAYNARD.—Now, then, the distinct arrangement that was made in the presence of the Examiner, by Mr. Walsh and myself, was this, that the time could be extended for the taking of the testimony, while the witnesses that we have—the grist that we had to be ground out, without any further obligation or any further stipulation, and that it should go on from time to time until we got through with the witnesses that we were to produce with regard to the matter, and then it was to close.

By Mr. WALSH.—It was agreed that a list of the witnesses should be furnished, and a list was furnished to me, and this man's name was not on the list.

By Mr. MAYNARD.—Certainly, and I furnished you

(Testimony of John H. Cole.)

a list, at the time, and I told you at the time that I did not know their names. I didn't know just who they were at that time.

By Mr. WALSH.—Of course that would give you an opportunity to go on indefinitely. There is no reason why, if you examine this witness, there is no reason why you wouldn't put on any amount.

By Mr. BICKFORD.—I have a very distinct recollection of the stipulation that was made something like a week ago to-day, the last one that was made, and that was that the Idaho witnesses should be called, and should be examined, after which the complainant would close its case. The stipulation was concerning the Idaho witnesses only, and that term was used to cover those witnesses who were to come from Idaho here to testify; and there was some intimation at that time that there might be other witnesses among those who made final proof, and whose names were mentioned in the bill of complaint on file herein, and the stipulation covered the names of those witnesses who had final proof, as well as the Idaho witnesses, and whose names were mentioned in the bill of complaint, but no other.

By Mr. WALSH.—There were no other witnesses on the list of names that you gave me, except those witnesses who had made final proof, and whose claims were attached.

By Mr. MAYNARD.—There was never any talk that it was to be confined to any particular witnesses, but

(Testimony of John H. Cole.)

that I was to have the privilege and the right to offer any witnesses, I desired, in connection with the case, and that we shouldn't ask for another continuance.

By Mr. WALSH.—But, however that was, you gave me a list of the witnesses that you wanted, and this witness wasn't one of them.

By Mr. MAYNARD.—Certainly, I gave you the list and the original paper that I furnished you, Mr. Walsh, in your office, contained the exact agreement, and the list of the names of the witnesses that I knew, and there were several names of the witnesses that I did not know, and I drew lines on this paper to represent the names of the witnesses I did not know, and informed you of the fact.

By Mr. BICKFORD.—I want to state now, that no list of the witnesses, have ever been furnished to me. I have never seen any list of the witnesses, and know nothing whatever concerning any stipulation except the one I myself mentioned, and this stipulation under which I have been acting, up to the present time here in this case, and we object to this man being examined for the reason that the time has gone by.

By the EXAMINER.—Where is your list?

By Mr. WALSH.—There was only a list of the witnesses named in the bill of complaint. There were no other witnesses. I did not keep the paper, I threw it in the waste basket.

(Testimony of John H. Cole.)

By Mr. MAYNARD.—The Examiner knows perfectly well what took place between us.

By the EXAMINER.—I sat here engaged in working on this testimony, and my recollection is that the witnesses from Idaho, and I don't remember whether the word "batch" of witnesses was used, that those who were on their way or had been subpoenaed were also to testify. That is, whenever they arrived, and Mr. Maynard was to furnish this list to Mr. Walsh.

By Mr. BICKFORD.—And I want to add now the further statement: at the time this stipulation was entered into, these witnesses had not been subpoenaed, and Mr. Maynard said that he didn't even know their names.

By Mr. WALSH.—Why, under your construction you have got the right to put on forty witnesses if you want to.

By Mr. BICKFORD.—Certainly, so that we could be running right along.

By the EXAMINER.—Well, I presume the only way to do is to let the witness testify, and then make your objection to the court and let the court pass upon it.

Thereupon JOHN H. COLE was sworn by the Examiner, and testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. What is your full name?

A. I have given it to the stenographer.

(Testimony of John H. Cole.)

Q. Well, you had better state it so that it can go into the record. A. John H. Cole.

Q. In 1899, what position did you hold, Mr. Cole?

A. I was publishing a little newspaper at Garnet, Montana.

Q. What was the name of the newspaper?

A. The "Garnet Mining News."

Q. The "Garnet Mining News"? A. Yes, sir.

Q. How long were you the publisher of the paper?

A. For nearly a year.

Q. When did you commence its publication?

A. I believe it was in 1889—in 1899.

Q. What time of the year?

A. Why, it was during the boom times—why, it was in the fall of 1898, and it ran until the next fall. I wasn't there, however, all the time.

Q. What is that?

A. I started it and retained control of it, and ran it until the spring of 1900.

Q. Did you attend to its business management, too?

A. I did during the summer of 1899. I am mixed up somewhat on the dates. It was the close of a century and I have got to stop and think as to the dates.

Q. What is your position now, Mr. Cole?

A. I am news editor of the "Daily Inter-Mountain."

Q. In Butte? A. In Butte, yes, sir.

Q. I wish you would state as to whether or not you have any knowledge of the fact of the publication of a number of entries under the Stone and Timber Act, so-

(Testimony of John H. Cole.)

called in the "Garnet Mining News," in the year that you have referred to? A. Yes, sir.

Q. In your best judgment and recollection, how many were printed in your paper during the fall and summer of that year?

By Mr. WALSH.—We object to that upon the ground that it is incompetent, irrelevant and immaterial.

A. I couldn't state the number. Quite a lot of them, though. I don't know that I care to state even approximately, because I might be wrong. There was quite a lot of them, though.

Q. Has the paper suspended publication, now?

A. Yes, sir. I sold out.

Q. What is that?

A. I say, I sold out, and it quit doing business.

Q. Well, now, Mr. Cole, will you please tell me as to whether or not Mr. Cobban paid you money for those publications?

By Mr. WALSH.—We object to that upon the ground that it is incompetent, irrelevant and immaterial.

By Mr. BICKFORD.—And also because it doesn't appear that any of the entries mentioned in the bill of complaint here on file were published, so far as the evidence of the witness goes, or that he knows of any such notices having been published in his paper; and the inquiry as to whether Mr. Cobban paid for the publication of any notices, except notices of the entries

(Testimony of John H. Cole.)

referred to in the bill of complaint, is irrelevant and incompetent.

A. Why, my recollection is that he did. That is, there was a draft enclosed in the letters from Mr. Cobban, I believe on one or two occasions.

Q. How much was the amount of that draft?

By Mr. WALSH.—We object to that upon the ground that the draft itself is the best evidence.

A. I couldn't state.

Q. Well, just give us your best recollection?

By Mr. WALSH.—We object to that for the reason that the draft itself is the best evidence of its contents.

A. I wouldn't care to venture a guess at it even. There was a lot of them.

Q. There was what?

A. There was a lot of them, and coming from different parties. I don't want to—I cannot recollect, that is all there is to it.

Q. Do you remember this same year of receiving from Mr. Catlin any drafts or anything for the same purpose?

By Mr. WALSH.—We object to that as being leading and upon the further ground that it is irrelevant and immaterial, and the particular inquiry is not limited to the notice of the entries referred to in the bill of complaint, or any of them.

A. I believe I did.

Q. How many times?

(Testimony of John H. Cole.)

A. Two or three times at least. I couldn't say, though, as to that.

Q. In what shape did the payments come?

By Mr. WALSH.—We object to that as being leading and upon the further ground that it is irrelevant and immaterial, and the particular inquiry is not limited to the notice of the entries referred to in the bill of complaint or any of them.

A. I believe by draft enclosed in a letter from Mr. Catlin.

By Mr. BICKFORD.—We now move to strike out the testimony of the witness with reference to this matter because the letter itself, and the whole contents as well as the draft or drafts themselves, are the best evidence of the contents thereof.

Q. Do you know on what banks the drafts were drawn, or were the checks, or what were they?

A. I believe they were drafts, and possibly checks. Anyway, I think the business was done through the Missoula Bank, one of the Missoula banks. I don't recollect which one. I haven't been down there in that country for a long while.

Q. Did you receive any money from Mr. Pound?

Mr. BICKFORD.—We object to that for the reason that it is leading, and it is irrelevant and immaterial, inasmuch as the inquiry is not restricted to moneys received from Mr. Pound on account of any of the entries referred to in the bill of complaint.

(Testimony of John H. Cole.)

Q. That is, were they all for payments for publications under the Stone and Timber Act during the year 1899, that were published in the "Garnet Mining News"?

By Mr. BICKFORD.—We object to that for the reason that it is leading, and it is irrelevant and immaterial, inasmuch as the inquiry is not restricted to moneys received from Mr. Pound on account of any of the entries referred to in the bill of complaint; notwithstanding the explanation of counsel we want to object for the reason that he has not confined his inquiries to the entries mentioned in the bill of complaint, and we insist that he should be compelled to restrict the inquiry to matters and entries involved and set forth in the bill of complaint.

A. I have no recollection of receiving any money from Mr. Pound; I don't think I did. I possibly may have, however.

Q. How many times, if any, did you receive money from Mr. Chauncey L. Griswold, who is here in the room, in payment for those entries?

By Mr. WALSH.—We object to that upon the ground that the question is leading, and further it is incompepetent, irrelevant and immaterial, and particularly for the reason that the inquiry is not confined to any of the entries referred to in the bill of complaint.

A. I couldn't say positively, but several times. I wouldn't want to state positively how many. I don't know.

(Testimony of John H. Cole.)

Q. Where was Mr. Griswold when he paid you the several payments for these entries?

A. The same way, by letter.

By Mr. WALSH.—We move to strike out the testimony of the witness, upon the ground that the letters themselves are the best evidence of their contents.

Q. Give us your best recollection as to the number of times that you received payments from Mr. Griswold for these entries?

By Mr. WALSH.—We object upon the ground that the question is leading, and further it is incompetent, irrelevant and immaterial, and particularly for the reason that the inquiry is not confined to the entries referred to in the bill of complaint.

A. Well, I wouldn't care to say, really; a couple of times, anyway. My idea is that it was more than that, but I wouldn't—I don't care to make a statement that is not true.

Q. Have you any—could you say as to whether or not, when the payment was made, it was for the sum of $82.30?

By Mr. WALSH.—We object to that upon the ground that the question is leading, and further it is incompetent, irrelevant and immaterial, and particularly for the reason that the inquiry is not confined to the entries referred to in the bill of complaint, the letters themselves being the best evidence.

A. I couldn't state as to the amount, but it would very likely be that large or larger possibly.

(Testimony of John H. Cole.)

Q. Would the same answer be to the same question, but as to whether it was $75.00?

By Mr. WALSH.—We object to that upon the ground that the question is leading, and further it is incompetent, irrelevant and immaterial, and particularly for the reason that the inquiry is not confined to the entries referred to in the bill of complaint, the letters themselves being the best evidence.

A. The same answer, yes, sir.

Q. And the same answer as to whether the payment would be $62.50?

By Mr. WALSH.—We object to that upon the ground that the question is leading, and further, it is incompetent, irrelevant and immaterial, and particularly for the reason that the inquiry is not confined to the entries referred to in the bill of complaint, and the letters themselves are the best evidence.

A. I couldn't recollect whether that was the amount or not. My recollection isn't very clear as to that.

Q. You may state as to whether or not the sums that you received in the shape of drafts or checks, as the case may be, from Mr. Cobban, for this same purpose, were for amounts which were as large as these or larger?

By Mr. WALSH.—We object to this for the reason that it is incompetent, irrelevant and immaterial, and for the further reason that the letters and papers, themselves, are the best evidence of their contents, and for

(Testimony of John H. Cole.)

the reason that it calls for a conclusion from the witness, and not for a fact.

A. I wouldn't state anything about it. In fact, I don't want to go on record as saying positively that I received anything at all from Mr. Cobban. My recollection, however, is that I did, but as to the amount I couldn't say.

Cross-examination.

(By Mr. BICKFORD.)

Q. You don't know concerning what entries these payments were made, do you, Mr. Cole?

A. No, I do not.

Q. You have no knowledge in whose names the advertisements took place, do you?

A. No, sir, I couldn't tax my memory as to that.

Q. You couldn't give from recollection any of the entrymen, could you?

A. No, and connected with the amount paid. I might in turn say, the names of these entries, some of them, seemed familiar, that is all.

Q. Your paper was used as a medium, by which mineral entries were advertised by you at the same time?

A. Yes, sir.

Q. And there were homestead entries as well as others, weren't there?

A. I don't know as to homestead entries, but I think there were all kinds of entries published.

Q. All of kinds of notices were published in your paper? A. Yes, sir.

(Testimony of John H. Cole.)

Q. Well, weren't there forest reserve selections and that sort of thing published?

A. I don't recollect any forest reserve. There might have been, but I don't recollect.

Q. And don't you remember of having a lot of Mr. Cobban's forest reserve published in your paper during that time?

A. I don't know where it came from, but I think there was.

Q. And those checks that you received from Mr. Cobban might have been received for forest reserve collections as well as any other?

A. It is possible. I didn't fasten it on my memory.

Q. Now, the rule of the land office with reference to the publishing of notices of all kind is that they shall be published in the newspaper that is nearest to the land that is to be entered?

A. That is the rule, that is the law in fact.

Q. And the law was observed in this particular?

A. Yes, sir.

Q. And only those entries, that were made nearest your paper were published in your paper?

A. Yes, sir. And in all of them—no, not all of them, the "Missoulian" got away with a big bunch of them; got away with most of them, I think.

Q. Well, in these payments that you say you received from Mr. Griswold, were they paid by check or by draft or something of that kind?

A. No, I think they were drafts. I don't recollect

(Testimony of John H. Cole.)

exactly as to that, I couldn't say, but I know that whatever it was, it brought the money.

Q. It was either a check or a draft?

A. It was something of that kind, something in paper because it came by mail.

By Mr. BICKFORD.—Now, we move to strike out the testimony of the witness, concerning the sums of money paid by Mr. Griswold, and particularly as to the amounts contained in the checks, or the drafts, or whatever they were, for the reason that the checks or drafts themselves are the best evidence.

By Mr. BICKFORD.—That is all.

By Mr. MAYNARD.—We will ask Mr. Cobban to produce the check and the draft. At least his checks.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Where are your books, Mr. Cole?

A. I couldn't say right now. That is, I think they are at Garnet. All of that stuff pertaining to that matter I think is over there. I haven't been there you know for two years or over.

Q. What is Garnet?

A. It is a little mining camp that shows considerable promise.

Q. It is a little mining camp? A. Yes, sir.

Q. How much population?

By Mr. WALSH.—We object to that as irrelevant and immaterial. No complaint is made in the bill of com-

(Testimony of John H. Cole.)

plaint that the notices were not duly published or published in the paper, in which the same might be legitimately published.

A. I don't know the population, but at that time—population in this country are usually determined by the number of votes cast, and I believe there was at that time 285, so that would give you an idea of what the population of the town was.

Q. You say you think your books are in Garnet?

A. Yes, sir, I think the whole business is there.

Q. Whereabouts?

A. Why, in a little frame building there, I guess.

Q. In a little frame building there?

A. In a desk there, yes, in a little frame building.

Q. In a desk, in a little frame building?

A. Yes, sir. I couldn't say as to that, but I think they are, they were at any rate.

Q. Well, could you produce those books, those books of account?

A. Well, if they are there, they could be produced. I would hate to have to take the time to do it.

Q. Well, you were subpoenaed to bring them, were you not?

A. Yes, sir, but I didn't bring them because I was subpoenaed to bring them here at ten o'clock, and I had to have some little communication in regard to that matter, in order to obey the subpoena, and I found out that it was impossible to bring them with me and be-here at the time stated in the subpoena.

(Testimony of John H. Cole.)

Q. You found out that it was impossible?

A. Yes, that I couldn't get here with the books, so I thought I would come myself, alone and explain the matter. It may be that they have been already destroyed, but I don't think so. I think very likely the letters and everything else is there. I didn't destroy them myself.

Q. You think that you can be in a position to obey the demands of the subpoena by producing the books?

A. Well, that is, I don't know. It is just as I told you. I haven't been there for two years. There were some parties running the paper after I left it, and it may be they have destroyed them; I don't know. They were there; there was a lot of old letters, and they might have thought that they were of no account and thrown them away or burned them.

Q. A lot of old letters, you say?

A. Yes, sir.

Q. Did you enter the matter in your cash-book?

A. Oh, yes, there is a general book there with entries, but that may have been torn up and destroyed. You see two years and a half is quite a while in the life of a little newspaper.

Q. Well, would the books show the particular entries and what the drafts were intended to pay for?

A. Well, I don't—no, I don't think so. It is a matter I kept track of in order to get the money at the time, and after that was over, and the affidavit sent to

(Testimony of John H. Cole.)

the land office why I didn't see any necessity of keeping it any longer.

Q. Did you send your affidavit for the publication of these notices, to any other office than the land office here at Helena?

A. No, sir, only to the Helena land office, I think.

Q. What is that?

A. I don't think that I got any from any other land office.

Q. And that covered a period of time when?

A. Oh, probably six or eight months, or something of that sort.

Q. Six or eight months of what year?

A. Of 1899.

Q. Of 1899? A. Yes, sir, 1899.

Q. Now, then, the practice was, as I understand it, for the register, upon the entry being made, and the statement having been filed, to cause that statement to be published in the newspaper nearest to the land?

A. Yes, sir, that is my understanding about it.

Q. And you were to receive this notice to be published, from the register of the land office?

A. From the register of the land office, yes, sir.

Q. And who would pay you?

A. Why, the fellow that made the entry was supposed to pay it.

Q. Does the register or the receiver of the land office, or anybody in the employ of the register have anything whatever to do with the publication?

(Testimony of John H. Cole.)

A. I believe not, except to see—except to get an affidavit that it has been published.

Q. And as a matter of fact, they couldn't go on with the proceeding until they were furnished. I am now speaking legally.

A. Yes, sir.

Q. Until they were furnished with an affidavit from the publisher of a newspaper, stating that, as a matter of fact, the publication had been made for the time required by law?

A. No, sir, that is my understanding of it. I am not making any decision, however.

Q. And the entryman was the man that paid you the money?

A. He had to pay it before the affidavit was made, yes, sir.

Q. Before you would make the affidavit?

A. You see the affidavit that goes to the land—there is two—one that is published the required time, and the other that payment has been made for the publication.

Q. Well, now, then, Mr. Cole, if this payment had been made by the entryman as you have specified and testified to, how was it that Mr. Cobban and Mr. Catlin and Mr. Griswold were making these payments?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial.

A. I couldn't say, Mr. Maynard. I was simply and

(Testimony of John H. Cole.)

only interested in the fact that they made the payment, that is all.

Q. You didn't know—

A. No, I didn't know what arrangements the entryman had made with Mr. Cobban.

Q. You didn't know what arrangements Mr. Cobban had made with his employes relative to the matter?

A. No, sir, I had no knowledge of anything of that sort at all.

Recross-examination.

Q. As a matter of land office practice, it is the habit of the attorney who appears for the claimant to make these payments, is it not, Mr. Cole?

A. Oh, I wouldn't care to say what the custom is. That I suppose, though, would be the custom.

Q. Well, isn't it a fact that in your dealings in that matter, payments have often been made by the parties or their agents?

A. Well, by their agents, perhaps. I don't understand, however, that Mr. Griswold is an attorney.

Q. Well, did you understand that Mr. Catlin was an attorney?

A. I didn't know that he was an attorney, no, sir.

Q. You didn't know that he was an attorney?

A. No, sir.

Q. Did you know that Mr. Cobban is a land attorney?

A. No, sir.

Q. Do you know that any of these payments that

(Testimony of John H. Cole.)

were made, to you, were made by the attorneys or by the men who made the entries, themselves?

A. There were a few of the entrymen that made the payments with me.

Q. That is done, but the point I wanted to know is whether or not it is the custom for the entryman to pay you?

A. Well, it wasn't the custom for the entryman to pay me.

Q. The payments were made by the attorneys, were they?

A. Yes, sir, there was two or three, I may volunteer the information, that never did pay me.

Q. That didn't pay at all.

A. No, sir, that didn't pay at all.

Redirect Examination.

(By Mr. MAYNARD.)

Q. During this six or eight months that you were publishing these notices under the Stone and Timber Act of 1899, have you any present recollection of receiving any money from anybody in payment of these publications except from Cobban's office or from Mr. Griswold?

By Mr. WALSH.—We object to that as altogether leading, and as irrelevant and immaterial.

A. I wouldn't say for sure. There might have been. I have not—I couldn't say at all.

Q. Now, then, as I understand your answer, it is

(Testimony of John H. Cole.)

that you have now, no present recollection of ever having received one payment from any single person other than that which would be embraced in the Cobban office, or Mr. Griswold, and if you have I want you to name it.

By Mr. WALSH.—We object to that as being a statement of the counsel as to what he supposes to be the tenor and effect of the testimony given by the witness.

A. Well, I couldn't name any person that did. However, I don't want to say positively that some one of the entrymen or women haven't paid me. I don't know as to that, but I haven't any present recollection, and I couldn't name the person that did, and I couldn't even name the person that did not pay me, but I recollect very distinctly that there was two or three that did not.

Q. What I would like to know, Mr. Cole, before we get through with this examination, is this. I would like to have you try and put yourself in a position to observe the commands of the subpoena and try and produce those books and make an examination of them and produce them and bring them here? A. Yes, sir.

Recross-examination.

(By Mr. BICKFORD.)

Q. Did a man by the name of Dell Wells pay you for advertising his timber and stone entry?

A. Not that I have any recollection of. I have no recollection of it.

Q. Did the—a man by the name of Louis A. Wells?

(Testimony of John H. Cole.)

A. It seems to me—the name seems a little familiar, but I couldn't say.

Q. Or one M. L. Stairs, pay you for the timber and stone entry, for the advertisement on it, I mean?

A. I couldn't say. I cannot recollect.

Q. Did a woman by the name of Lizzie Wells pay you for her advertisement?

A. I couldn't say as to that.

Q. Do you remember of Charles Johnston paying you for his advertisement for that timber and stone entry?

A. I don't remember.

Q. Do you remember the name of any particular entryman who paid you for advertising this timber and stone entry during the time that you have mentioned?

A. No, I have no recollection of—as I replied to his question—I have no recollection of any individual that paid me. I have no recollection of it. I do not wish to say that they did not pay me, but I could not recollect as to that.

Q. Did Mr. Goodfellow or Mr. McNeal?

A. I don't remember as to that.

Q. Did you ever have their timber and stone entry to advertise?

A. I don't recollect of publishing one in which McNeal and Goodfellow's name appeared. Goodfellow's name is familiar, however. I don't know, of course. There are a great many names, and I couldn't remember all of them.

Q. Do you remember a man by the name of McNally?

(Testimony of John H. Cole.)

A. Yes, sir, I think that man was one of them.

Q. Do you remember whether he made payment himself, or through his attorney?

A. I couldn't say.

It is stipulated by the parties hereto that the testimony of John H. Cole may be read over and corrected by the Examiner, and when so read over by him and corrected, and certified by the Examiner, the testimony shall stand, and have the same force and effect as if subscribed and sworn to by the witness.

I hereby certify that the testimony of John H. Cole has been correctly transcribed by the stenographer.

HENRY N. BLAKE,
Examiner in Chancery.

Adjourned until 10 o'clock, March 26, 1902.

Wednesday, March 26th, 1902, 10 A. M.

Hearing resumed pursuant to adjournment.

Thereupon, the witness, GEORGE D. GREENE, was recalled for further examination by Mr. Maynard.

Q. Mr. Greene, have you within the last few hours made a personal examination of the official records of your office and from that examination are you able to state number of the publications made in the year 1899 under the Stone and Timber Act in the "Garnet Mining News"?

Mr. WALSH.—We object to that for the reason that it is irrelevant, immaterial and incompetent.

A. I made an examination of all the entries that I

(Testimony of George D. Greene.)

testified concerning here in this proceeding; I did not make an examination of any of the entries outside of this; there is nothing from which I could determine in our office where the publications were made in the other entries, but in these I have the original papers showing them.

Q. Well, I wish you would read it, please.

A. The following entries notice of intention to make final proof were published in the "Garnet Mining News"; that is all I testified to concerning here the other day:

Cash Entry No. 6120 by Charles Cloutier.

Cash Entry No. 6121 by John Gilles.

Cash Entry No. 6137 by B. Frank Chattin.

Cash Entry No. 6134 by Martha M. Doney.

Cash Entry No. 6135 by Edward D. Doney.

Cash Entry No. 6136 by Thomas Pelkey.

Cash Entry No. 6164 by Albert F. Muchmore.

Cash Entry No. 6165 by Guy W. Muchmore.

Cash Entry No. 6166 by Alfred Muchmore.

Cash Entry No. 6167 by Elizabeth A. Muchmore.

Cash Entry No. 6161 by Elijah W. Hoyt.

Cash Entry No. 6162 by Charlotte S. Hoyt.

Cash Entry No. 6173 by Alfred Stewart.

Cash Entry No. 6187 by Edgar Lehman.

Cash Entry No. 6186 by Leonard Barrett.

Cash Entry No. 6184 by John B. Catlin.

Cash Entry No. 6188 by Lelia T. Bryan.

Cash Entry No. 6185 by Belle Bryan.

Cash Entry No. 6174 by Nels O. Opsata.

(Testimony of George D. Greene.)

Cash Entry No. 6190 by Mrs. May Hawthorne.
Cash Entry No. 6202 by Harriet Watson.
Cash Entry No. 6203 by Marion B. Watson.
Cash Entry No. 6205 by Harry C. Dorman.
Cash Entry No. 6208 by Katie Watson.
Cash Entry No. 6211 by Edward Dodd.
Cash Entry No. 6212 by Cora Dodd.
Cash Entry No. 6213 by Dock E. Watson.
Cash Entry No. 6217 by Thomas H. McConnell.
Cash Entry No. 6216 by Charles B. Sperry.
Cash Entry No. 6224 by Hiram Dodd.
Cash Entry No. 6225 by Harrison Dodd.
Cash Entry No. 6226 by Matilda Dodd.
Cash Entry No. 6227 by Lizzie Dodd.
Cash Entry No. 6268 by Vital Cyr.
Cash Entry No. 6269 by Levi B. Cyr.

—that is all.

Q. In what year were those published?

A. For the most part in the year 1899, I think.

Q. You have already brought the original record in and these are taken from those?

A. Yes, sir, the notices in all of these entries were published in the "Garnet Mining News."

Cross-examination.

(By Mr. WALSH.)

Q. You are just simply giving us a summary that you took from the final proof papers in these cases that have been discussed here? A. Yes, sir.

(Testimony of George D. Greene.)

Q. It appears in the final proof papers that these publications are made in the "Garnet Mining News"?

A. Yes, sir.

Q. Why were they made in the "Garnet Mining News"?

A. Because that was the nearest paper to the land.

Q. These are the only timber and stone entries made in the year 1899, in your office?

A. No, there was a great many others made in that year.

Q. I think you told us approximately the number when you were on the stand before, but I do not now recall it.

A. I can approximate it, I cannot be exact, there were about sixty of these claims when these commenced and there were about a hundred and twenty-eight stone and timber entries when they ceased. I believe only two entries have been made since those that are involved concerning which I testified were made.

Q. So the aggregate is about how many?

A. I think about sixty or over including these.

Q. In the year in addition to these altogether during this rush about sixty timber and stone entries were made?

A. Possible a little more, but not very many more.

Q. How many are there on your list?

A. One hundred and thirty, all told.

Q. On the list you have now read?

A. Thirty-six.

(Testimony of George D. Greene.)

Q. Thirty-six on your list and about sixty made, altogether? A. Yes, sir.

Q. In what locality were these timber and stone entries made?

A. Same locality practically that these are.

Q. These were published in the "Garnet Mining News" because the "Garnet Mining News" is the paper published near to the land?

A. Yes, sir, I think all the others during that year were published in that paper.

Q. That is all of the sixty or seventy, whatever the number was? A. Yes, sir.

Q. Were published, you think, in the "Garnet Mining News"? A. I think so.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Under the law you were obliged to send the notices to the newspaper that is published nearest the land?

A. Yes, sir.

Q. When the statement is filed? A. Yes, sir.

Q. And when do you next see it?

A. The paper is sent to our office right along, so that our notice clerk sees the first issue after the notice appears in it; I hardly ever see them, but our notice clerk sees the notices and compares them to see that they are published correctly, and makes corrections, if necessary, and takes out the slips of publication that are used in making the different certificates.

(Testimony of George D. Greene.)

Q. Under the law does your office pay for this publication? A. No, sir.

Q. It does not? A. No, sir.

Q. Have anything to do with it? A. Not at all.

Q. Who does pay for it?

A. The claimant is supposed to pay for it.

Q. And are you under the lawable to take any steps until the affidavit of publication is furnished you?

A. We are not authorized to take any steps whatever or issue final certificate until we have proof that the notice had been properly published; that is a condition precedent to the issuance of the final certificate.

Recross-examination.

(By Mr. WALSH.)

Q. You say the claimant is supposed to pay for it; as a matter of fact, it is ordinarily paid by the attorney or other person who is taking care of it?

A. Oh, very frequently.

Q. You mean either that the claimant himself pays for it or he appoints somebody to pay for it?

A. Yes, sir.

GEORGE D. GREENE.

Subscribed and sworn to before me this 27th day of March, A. D. 1902.

HENRY N. BLAKE,
Examiner.

Friday, March 21st, 1902, ten A. M.

Hearing resumed pursuant to adjournment.

Mrs. EUNICE KNIGHT, a witness called by the complainant, after being first duly sworn by the Examiner, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Mrs. Knight, where are you living now?

A. At Carlton.

Q. In Montana? A. Yes, sir.

Q. What are you doing there?

A. I am teaching school there.

Q. How long have you taught school at Carlton?

A. Well, this will be the fourth year there, but in another school, I taught there first, and then I went to Missoula, and I was there five years; and then I went back to Carlton again, and I have come from there now.

Q. Did you at any time live up in the Blackfoot country?

A. Why, I was there the last year, the 25th of April to the first of September.

Q. Whereabouts were you?

A. At Potomac. I taught the Potomac school.

Q. What year did you teach at Missoula, in the public schools in Missoula?

A. I taught there, first, the year of 1892 and 1893, and then I was away two years; and then I went back and remained there three years, beginning again in 1895, and I taught from then until 1899 or 1890.

(Testimony of Mrs. Eunice Knight.)

Q. That is 1899, you mean? A. I beg your pardon.

Q. The year 1899, you mean, don't you?

A. Yes, sir.

Q. And 1900? A. No, sir, 1898 and 1899.

Q. Do you know Mr. Griswold, Mrs. Knight?

A. Yes, sir, I boarded at one time with his mother in Missoula.

Q. When was that, what year?

A. Well, I don't know as I could give the exact year—I can't count any more this morning. The year that Mr. Griswold first came to Missoula and lived, I cannot give it without looking at my notes.

Q. Where were you teaching in the spring of 1899, three years ago? A. I was teaching in Missoula.

Q. In the spring and summer, do you mean?

A. I taught there at the school there about the first of June. That is, the first time.

Q. In 1899? A. Yes, sir.

Q. And then where did you spend the summer vacation? A. At Los Angeles, California.

Q. Do you know Mr. and Mrs. Cobban?

A. Yes, sir. I taught Mrs. Cobban's son in school that year.

Q. Do you know Mrs. Cobban's sister, Mrs. Price?

A. Yes, sir, slightly.

Q. Mrs. Knight, do you know of the fact—during this year that I now have called your attention to, the year 1899, while you were teaching there at Missoula, of entries being made by parties under the Stone and Timber Act?

(Testimony of Mrs. Eunice Knight.)

A. Yes, sir.

Q. Now, I wish that you would go on, in your own way, and state all that you know about it.

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and has no bearing upon any of the issues in this case.

By the EXAMINER.—Now, you can go on and state—you can answer the question. The objection is made, and made a note of in the record by the stenographer, and when that is done, you can answer the question.

A. Well, I know that two or three times, I tried to secure a claim myself. I, at one time, employed a man to locate me, and I advanced a portion of the money that I was to pay him, after I was located, in advance, but for some unknown reason I failed to be located, and after that I—

By Mr. BICKFORD.—Just wait a moment; we move to strike out this part of the answer of the witness as being irrelevant and immaterial, it appearing by the record in the case that the witness, now upon the stand, never did, as a matter of fact make a timber and stone entry; and for the further reason that there is no allegation in the bill filed herein that she ever did make a stone and timber entry or convey the same to any person whomsoever.

WITNESS (Continuing).—After that I went to Mr. Griswold, there being quite a public rumor at that time that it was a money making scheme, if anybody would be fortunate enough to secure anything of that kind, and

(Testimony of Mrs. Eunice Knight.)

asked Mr. Griswold if he would be kind enough to locate me.

By Mr. BICKFORD.—We object to any conversation between this witness and Griswold, for the reason that it is hearsay, and irrelevant and immaterial, and does not prove, or tend to prove, any issue in the case, and we, therefore, move to strike out that portion of the testimony, which relates to rumors that were in circulation.

Q. Well, go on, Mrs. Knight; what did Mr. Griswold say and do?

A. Well, he didn't—he said he had nothing for me at that time, and couldn't do anything for me. I think that was the reply that he gave me, or something to that effect.

Q. Whereabouts were you when you went to see him?

A. I was then boarding with a family on Riggins avenue, and he was there visiting the family that I was boarding with.

Q. In Missoula? A. Yes, sir, in Missoula.

Q. When was that, as near as you can tell, Mrs. Knight?

A. Well, to the best of my knowledge, it was the spring of 1891—1890 or 1891, I wouldn't be sure which.

Q. You mean 1899, don't you?

A. I think so. I cannot tell you the exact date, but I think at that time.

Q. The spring of 1899?

By Mr. BICKFORD.—Now, the witness has testified that it was 1890 and 1891. She evidently is mistaken about it.

(Testimony of Mrs. Eunice Knight.)

A. I don't mean that, Mr. Bickford. I mean, 1899 or 1900.

By Mr. BICKFORD.—Now, the question was asked by counsel for the purpose of leading you, saying that it was in 1899. You didn't mean to say that it was in 1899, did you?

By Mr. MAYNARD.—I have asked her to fix the time, and she has fixed the time, when she heard rumors circulated in Missoula, and I asked her if it was that spring; the spring you went to Los Angeles.

By the WITNESS.—Yes, sir.

Q. Where was Mr. Griswold when you had this conversation with him?

A. He was at Mr. Matthew's house.

Q. Now, then, Mrs. Knight, won't you be kind enough to go on and state? You say it was a public rumor that this was a business transaction; now just go on and tell what you heard.

By Mr. BICKFORD.—We object to that for the reason that it is hearsay and irrelevant and immaterial.

A. Well, I—there was several of my acquaintances that had made these filings; and it seemed to be a money-making scheme as far as I understand it, and as I understood it at the time.

Q. Just what did you understand at the time?

By Mr. BICKFORD.—We object to that for the reason that it is immaterial and irrelevant as to what she understood.

(Testimony of Mrs. Eunice Knight.)

A. That all you had to do was to make the filing and the other party, if you would be successful enough to sell it, would pay all the costs, and you could sell the claim to them as you could best arrange your money. That is, the price stated, the price you could get. Sometimes it was more, and sometimes it was less. That was my understanding of the case, and after I talked with a friend of mine about it, he said, "Don't you know that if you would do anything of that kind it would be perjury." And he says, "You cannot do such a thing unless you perjure yourself." I thought that I was very unfortunate not to be able to get something; but perhaps under the circumstances, it was all for the best that I did not.

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial to the issues in this case and we move to strike out the answer of the witness.

Q. In other words, the things that sometimes seem unfortunate often turn out not to be so unfortunate.

By Mr. BICKFORD.—We object to that for the reason that it is leading.

A. Yes, sir.

Q. At what time were these entries made, if you know, or from what you had heard, from your friends, and so on.

By Mr. BICKFORD.—We object to that upon the ground that it is hearsay, and upon the further ground that it is irrelevant and immaterial.

A. Why, the man that I advanced money to to locate me, was Mr. William Sparks and he told me that—

(Testimony of Mrs. Eunice Knight.)

By Mr. BICKFORD.—We object to the witness stating what Sparks told her as being irrelevant and immaterial and hearsay.

Q. Just tell it all, just the same, Mrs. Knight. Mr. Bickford just puts it down. What were you going to say, Mrs. Knight.

A. Mr. Sparks told me it was to be sold to Mr. McLaughlin for W. A. Clark.

Q. And who was to take up the land in the first place? Who were you to buy—who was to buy them in the first place?

By Mr. BICKFORD.—We object to that for the reason that it is leading and irrelevant and immaterial.

A. Mr. McLaughlin was to buy them.

Q. From whom? A. From him.

Q. Yes, I know, but who were you to deed to after you had made your filing?

A. To Mr. McLaughlin.

Q. And Mr. McLaughlin was buying for Senator Clark?

By Mr. BICKFORD.—We object to that upon the ground that it is hearsay, and irrelevant and immaterial.

A. That is what Mr. Sparks told me.

Q. State whether or not Mr. Sparks informed you at the time, for whom he was working.

By Mr. BICKFORD.—We object to that for the rea-

(Testimony of Mrs. Eunice Knight.)

son that it is hearsay, and upon the further ground that it is irrelevant and immaterial.

A. Yes, sir, he did.

Q. Who did he say he was working for?

By Mr. BICKFORD.—We object to that for the reason that it is hearsay, and upon the further ground that it is irrelevant and immaterial.

A. Mr. McLaughlin.

Q. Did he say that he had a claim for you?

By Mr. BICKFORD.—We object to that for the reason that it is hearsay, and upon the further ground that it is irrelevant and immaterial.

A. He did, yes, sir, and I paid him twenty dollars in advance.

Q. You paid Sparks $20.00 in advance?

By Mr. BICKFORD.—We object to that for the reason that it is hearsay and upon the further ground that it is irrelevant and immaterial.

A. I did so that he would have something to work on.

Q. Did you ever get your claim or your money?

A. No, sir.

Q. You got neither your claim nor your money?

A. Neither.

Q. Now, what did Sparks, who was working for McLaughlin and Cobban, and McLaughlin who was working for the defendant, say when you gave them the $20.00?

By Mr. BICKFORD.—We object to that for the rea-

(Testimony of Mrs. Eunice Knight.)

son that it is irrelevant and immaterial, and further upon the ground that it is hearsay testimony.

A. Well, he said he would go out and look for a claim and locate one for me, and when he came back if he found something that was satisfactory he would take me with him; and when he came back he said that he had found something that was very good indeed, but he came to me the next day and said that when he came to look over the books in Missoula, why he said it had been filed on, the claim that he located for me. I just thought that I was beaten once more, and that was all.

Q. That you were beaten once more. What did he say about giving you your $20.00 back?

A. Nothing, he never mentioned it.

Q. He never mentioned it? Now, after you got McLaughlin and Sparks to locate you, you got it with the understanding that you was to pay for the claim; how much did you understand that you were going to get for your claim after you had proved up on it?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. Well, he didn't say that; we hadn't gotten that far along in the game then, yet.

Q. You hadn't gotten far enough in the game yet?

By Mr. BICKFORD.—We object to that also upon the ground that it is leading and irrelevant and immaterial.

A. No, sir.

Q. But you were to sell for a certain price?

(Testimony of Mrs. Eunice Knight.)

By Mr. BICKFORD.—That is also objected to as leading, and as not being in accordance with the testimony heretofore given by the witness, and further that it is irrelevant and immaterial to the issues in this case.

A. Why, I was to sell, but we had no price determined on, what I was to receive for it.

Q. What price had your friends that had taken up entries of a similar character received?

By Mr. BICKFORD.—We object to this as being irrelevant and immaterial and hearsay, and as not being a question properly propounded to the witness for the reason that no foundation has been laid by any statement of the witness that any price was agreed upon, or that she knew that a price was to be paid to her for it.

A. Why, different prices.

Q. Well, what were those different prices?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. Well, some of them were $100.00 and some of them were $400.00.

Q. That is what they told you? A. Yes, sir.

By Mr. BICKFORD.—We move to strike out the answer of the witness, for the reason that it appears from the answer of the witness, that this conversation that was had was hearsay, and she doesn't know of her own knowledge.

Q. Can you name any of these persons that told you this?

(Testimony of Mrs. Eunice Knight.)

By Mr. BICKFORD.—We object to that for the reason that it appears that the foregoing answer of the witness is hearsay testimony and she does not know it of her own knowledge, and further that it is irrelevant and immaterial.

A. Well, if I remember rightly, Mrs. Miller, who filed on the claim, that Mr. Sparks had located for her, received $400.00 for her to the best of my knowledge.

By Mr. BICKFORD.—We move to strike out the answer of the witness from the records, for the reason that there is no allegation in the bill of complaint charging that Mrs. Miller, irregularly or fraudulently made a timber and stone entry, and it is therefore irrelevant and immaterial.

Q. Go on, Mrs. Knight, who was the next one? Did you have a conversation with Mrs. Price?

By Mr. BICKFORD.—We object to that as being leading, and further as being irrelevant and immaterial to the issues in this case.

A. No, sir, I did not.

Q. Did Mrs. Cobban—or did you have a conversation with Mrs. Cobban? A. No, sir.

Q. Can you recall any others?

A. Not—I don't recall any others now.

Q. And who was this woman that you say got $400.00 that you paid $20.00 on to get the claim?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, there being no

(Testimony of Mrs. Eunice Knight.)

charge in the bill of complaint with reference to this entry.

A. I think it was $400.00.

Q. Was she Mrs. Miller?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and does not prove or tend to prove any of the issues in this case.

A. Well, she was a school teacher at one time in Missoula and Missoula county.

Q. Where does she live now?

A. She lives in Missoula.

Q. Is she teaching now, Mr. Knight?

A. No, sir.

Q. Did she make an entry? A. Yes, sir.

Q. What have you to say, Mrs. Knight, as to—during this season that you now have fixed and referred to as to the public knowledge that existed in the community, so far as you know, in regard to these transactions?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and hearsay, and that the public rumors are in no sense proper testimony to be given in this case.

By the EXAMINER.—Mrs. Knight, you can go on with your answer to that.

A. Why, it seemed to be public talk generally, that all you needed to do was to find a claim, and you would very soon find a buyer.

(Testimony of Mrs. Eunice Knight.)

Q. And who was that buyer?

A. Well, I believe there was several that were buyers; the one that I have in mind now, that the majority of people were talking about was Mr. Cobban.

Q. And who was he buying for?

By Mr. BICKFORD.—We object to that unless the witness knows of her own knowledge.

A. Gossip doesn't go, does it?

A. Yes, certainly it goes. A. Public talk.

By Mr. BICKFORD.—We want to object to that, and we object to public talk or gossip, as a basis of the testimony of the witness, and we object to its being received in evidence for the reason that it is irrelevant and immaterial and hearsay.

A. Why, it seemed to be directly understood that Mr. Cobban was the buyer, and that he was buying for W. A. Clark. It seemed to be publicly understood.

By Mr. BICKFORD.—We move to strike out the answer of the witness for the reason that it is based upon gossip and not upon the knowledge of the witness herself.

By Mr. MAYNARD.—This is an objection, Mr. Stenographer, to the fact appearing of record that Mr. Clark's subagent, who has now already $20.00 of her money for a claim, which he proposed to make for her, with the understanding that she was to deed to his principal, the defendant for a certain amount of money, but which was not agreed upon.

(Testimony of Mrs. Eunice Knight.)

By Mr. BICKFORD.—We move to strike out the statement of counsel for the reason that there is no proof, showing, or tending to show that Mr. Sparks was ever an agent or a subagent of the defendant in this case; and for the further reason that the statement of counsel appears to be made, not for the purpose of making a correct record in this case, but by hearsay, and argument, and we object for that reason to his trying to bias the witness or to influence her testimony on the stand.

Q. Now, Mrs. Knight, how many conversations did you have with Mr. Griswold?

By Mr. BICKFORD.—We object to that upon the ground that it is hearsay and irrelevant and immaterial, and does not prove or tend to prove any issue raised in this case.

A. Well, I couldn't tell you how many I had with him.

Q. You understood for whom he was working, did you?

A. He told me he was connected with Mr. Cobban.

By Mr. WALSH.—We move to strike out the statement of the witness upon the ground that it is hearsay.

Q. Did you hear that from any other source?

By Mr. WALSH.—We object to that also upon the ground that it is hearsay, and irrelevant and immaterial.

A. Yes, he told me he was working for Mr. Cobban.

(Testimony of Mrs. Eunice Knight.)

By Mr. BICKFORD.—We move to strike out the answer of the witness for the reason that it is hearsay, and further, that it is not responsive to the question.

Q. You may state as to whether or not you offered to pay him for locating you?

By Mr. BICKFORD.—We object to that upon the ground, in the first place, that it is leading, and further upon the ground that it is irrelevant, and immaterial, and does not prove, or tend to prove, any issue raised by the pleadings in this case.

A. No, sir, I didn't offer him any pay, and he didn't say anything about it to me.

Q. Did he ever receive any pay, or any of your money?

By Mr. BICKFORD.—We object to that upon the ground, in the first place, that it is leading and further upon the ground that it is irrelevant and immaterial, and does not prove, or tend to prove any issue raised by the pleadings in this case.

A. No, sir.

Q. Mr. Sparks was the only man who received your money?

By Mr. BICKFORD.—We object to that upon the ground, in the first place, that it is leading, and further upon the ground that it is irrelevant and immaterial, and does not prove, or tend to prove any issue raised by the pleadings in this case.

A. Yes, sir.

(Testimony of Mrs. Eunice Knight.)

Q. And refused to pay it back?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial and leading.

A. Yes, sir.

Q. Now, Mrs. Knight, I overlooked this question—who was the man that afterwards, when you saw him, and was lamenting the fact that you hadn't succeeded in getting a claim, that told you that it was fortunate, because if you had done that you would have committed perjury and then you would be glad that you hadn't got the claim?

A. A man by the name of Webb, Mr. Prospect Webb.

Q. Prospect Webb? A. Yes, sir.

Q. Where does he live?

A. He lives in Potomac. His home was in Potomac.

By Mr. WALSH.—We move to strike out the matter testified to by the witness, Knight, as to her conversation with Mr. Webb, for the reason that it is irrelevant and immaterial to the issues in this case.

Cross-examination.

(By Mr. BICKFORD.)

Q. You said, I believe, Mrs. Knight, that you didn't make a timber and stone entry yourself?

A. Yes, sir.

Q. You never have made a timber and stone entry yourself, at all, have you? A. No, sir.

Q. You carried your intention of making a timber and stone entry no further than talking with Mr. Gris-

(Testimony of Mrs. Eunice Knight.)

wold about it, and talking with Mr. Sparks about it?

A. That is all.

Q. Do you know, as a matter of fact, how much was ever paid by any person for a timber and stone entry?

A. No, sir, I do not.

Q. Or how much was paid for the timber standing upon 160 acres of land entered under the Stone and Timber Act?

A. No, I don't know as I do, any further than hearsay; not of my own knowledge.

Q. Did you ever see any money paid to any person?

A. No, sir.

Q. Were you ever present when any deed was executed, or any money paid? A. No, sir.

Q. Or when any transfer was ever made from any entryman to any person who has procured it from the entryman.

A. I never did.

Q. Did you ever see anybody paid any money or anybody convey a timber and stone entry to anybody?

A. No, sir.

Q. As a matter of fact, do you know anything about who employed Mr. Sparks, or whether he was working, of your own knowledge, for anybody? A. No, sir.

Q. Did you ever see or hear him hired by anybody?

A. I never saw him hired; no, sir.

Q. Were you ever present when he was hired or paid for any work that he had done?

A. Only what I paid him myself.

(Testimony of Mrs. Eunice Knight.)

Q. Oh, no, in his regular employment, I mean?

A. No, sir.

Q. I will ask you if you ever heard Mr. McLaughlin hire Mr. Sparks? A. No, sir.

Q. Did you ever see or hear Senator Clark hire him? A. No, sir.

Q. Do you know, of your own knowledge, if Mr. Sparks was working for Mr. McLaughlin or Senator Clark? A. He told me so himself.

Q. I know; but do you know yourself?

A. Only what he told me.

Q. It may be that he was lying to you about working for Mr. Clark, the same as he was lying to you when he told you about taking up a claim for you.

A. Well, that is pretty strict. I have no reason to say that I thought he was telling me a lie; I cannot say that.

Q. Have you any reason for saying that you believe he was telling you the truth?

A. Why, I think this way. I know he had no money to go on with this himself, because he came to me for money.

Q. He was employed, then, first; he was in somebody else's employ? A. Yes, sir.

Q. He was working for somebody?

A. He was working for somebody, I suppose, yes.

Q. Now, if Mr. McLaughlin should testify that he was working for the Western Lumber Company, would

(Testimony of Mrs. Eunice Knight.)

you believe Mr. Sparks' statement with reference to working for Mr. McLaughlin; would you believe that?

A. I have no reason to believe that Mr. Sparks wasn't working for Mr. McLaughlin.

Q. Now, I will ask you to state if you know what the scope of his employment was, or what he was being paid?

A. He was locating claims, he told me.

Q. He told you he was locating claims?

A. Yes, sir.

Q. As a matter of fact, do you know whether he ever did locate any claims or not?

A. I don't know that I do.

By Mr. MAYNARD.—There is one that you know that he did not.

By the WITNESS.—I know that he did not locate one for me.

By Mr. BICKFORD.—There is one that you know he did not locate for?

A. Yes, sir.

Q. Now, Mrs. Knight, your knowledge with reference to locating claims by Mr. Sparks, is based entirely on hearsay, and you know nothing about it of your own knowledge.

A. Not of my own knowledge, no, sir.

Q. You never went down with Mr. Sparks when he was locating claims to see what he was doing?

A. No.

Q. You never went up into the country when he

(Testimony of Mrs. Eunice Knight.)

was locating claims to know or see what he was doing there? A. No, sir, I never did.

Q. Now, with reference to his locating claims, your only knowledge is that he did not locate you?

A. Well, I know that he did not locate me.

Q. Yes, now do you know of anybody that he did locate? A. No.

Q. Do you know of any entries that were made in the land office of the United States at Missoula, or at any other place, under the Stone and Timber Act of your own knowledge? A. No, sir, I do not.

Q. Did you ever see any entry made in the United States land office? A. No, sir.

Q. Did you ever see anybody make final proof there? A. No, sir.

Q. Do you know anything about Mrs. Price having made an entry in the United States land office?

A. Why, only by hearsay, that is all.

Q. You were not present when Mrs. Price made her location, were you? A. No, sir.

Q. You were not present when Mrs. Price made her final proof, were you? A. No, sir, I was not.

Q. Were you ever a witness on the making of an entry under the Stone and Timber Act?

A. No, sir.

Q. Well, was it common rumor that these claims were being made by these people upon the land, and that they would go to the land office at Missoula and commit perjury, and that they were all perjuring themselves when they were making final proof, and then

(Testimony of Mrs. Eunice Knight.)

they would go to the land office at the time of making final proof and perjure themselves, at the time they made their final proofs, and ask their witnesses to commit perjury at the time of their making their final proof?

A. At that time people didn't talk about perjury—didn't say anything about perjury at that time.

Q. Mrs. Knight, I will ask you as a matter of fact, if the people who told you, or may have spoken to you of this matter—if you believe that these people would go to the land office and commit perjury in taking up these claims?

By Mr. MAYNARD.—We object to that as not proper cross-examination, and entirely an unfair question and stating a speculative condition, and as being in no way proper cross-examination.

A. I don't think they considered it a matter of perjury.

Q. Now, as a matter of fact there was never any mention on account of perjury committed, and no question of perjury being committed in these rumors that you heard in the spring and summer of 1899, was there? A. No, sir, not at that time.

Q. Now, I will ask you to state if at that time it was not regarded by you, and by all others, with whom you talked as a perfectly legitimate transaction?

A. Why, it seemed to be perfectly so.

Q. Now, I will ask you to state, if as a matter of fact, you are a citizen of the United States?

(Testimony of Mrs. Eunice Knight.)

A. Yes, sir.

Q. And over 21 years of age? A. Yes, sir.

Q. And you have never used your timber and stone right? A. No, sir.

Q. Then, under the laws of the United States, you understood you had a perfect right to make a timber and stone entry? A. Yes, sir.

Q. That was your understanding in 1899, was it?

A. Yes, sir.

Q. I will ask you to state, if as a matter of fact, you did not, and did not then, believe it to be a perfectly legitimate business transaction until you talked with Mr. Griswold, and he informed you of the perjury?

A. Well, Mr. Griswold didn't inform me of the perjury.

Q. Did Mr. Hershey inform you of the perjury?

A. No, sir.

Q. Who did then? A. Mr. Webb told me so.

Q. When was it that Mr. Webb told you so?

A. Well, I think it was some time in April, 1901.

Q. In April, 1901? A. I think so.

Q. Then something like a year and a half after the time when you were contemplating—or two years after the time when you were contemplating making a timber and stone entry yourself? A. Yes, sir.

Q. Then it wasn't for two years afterwards that the rumor came to you that there was anything wrong about it?

(Testimony of Mrs. Eunice Knight.)

A. Well, that is the only person that I can call to mind now. All I could do was to talk about it, but I cannot tell you who all the persons were, or their names now at this time.

Q. Well, it was some time after you attempted to make an entry?

A. Maybe so. I remember this particular party, but other parties than that I had conversations with—other parties than Mr. Webb, but I cannot give you the names.

Q. Was it long before?

A. I couldn't tell you that. I don't remember. It was in the winter of 1899, I think, but I couldn't tell you whether it was in the winter of 1899, or whether it was in the fall of 1899.

Q. Was it about the time that Mr. Griswold commenced his action against Mr. Cobban for $2,400.00?

A. No, sir.

Q. Was it after that time, do you think?

A. No, sir, it was before that time.

Q. Didn't you hear it from Mr. Griswold?

A. No, sir, I never did. I never had any conversation even with Mr. Griswold. I didn't ever have any conversation with the man for more than a year, and I don't know but what it was nearly two years.

Q. More than a year from this time, prior to this time? A. Yes, sir, prior to this time.

Q. You said, I believe, that Mr. Cobban was buying

(Testimony of Mrs. Eunice Knight.)

these timber lands after the final proof had been made.

A. So Madame Rumor said.

Q. Madame Rumor said that and she said that other people was buying them too, did she not?

A. Yes, sir, Mr. McLaughlin.

Q. Who else?

A. Well, those are the only ones I call to mind now. That it was possible for me to sell to them, provided I could be successful.

Q. In making your final proof, you mean?

A. Yes, sir.

Q. Wasn't it rumored also that the big Blackfoot Milling Company was buying up these timber claims?

A. Yes, I believe it was.

Q. Wasn't it also rumored that a firm from Chippewa Falls was also buying up timber claims?

A. I don't remember that.

Q. Don't you remember that Charles Cowell was buying timber claims?

A. I don't remember that.

Q. And that the Western Lumber Company was buying timber? A. I don't remember that.

Q. Don't you know that it was rumored that a number of persons were buying timber at that time?

A. No, sir.

Q. Don't you know, and didn't you hear of Ed. Donlin—that he was buying up timber?

A. No, sir, I never heard that.

Q. Didn't you hear the rumor that Garrity and his partner were buying timber at that time?

(Testimony of Mrs. Eunice Knight.)

A. No.

Q. Didn't you hear at that time that McNear and Erickson were buying timber claims?

A. No, sir, I didn't hear that.

Q. You didn't hear that McNear and Erickson were buying timber? A. No, sir.

Q. Didn't you hear that at that time that Mr. Kendall was buying timber land?

A. No, I didn't—I don't remember it, Mr. Bickford.

Q. Didn't you hear that Mr. J. T. Carroll, of the J. T. Carroll Lumber Company was buying timber at that time? A. No, I didn't hear that.

Q. They might have been, and you not have heard about it? A. Yes, sir.

Q. You don't pretend to say that you heard all the things that were rumored in Missoula at that time?

A. No, sir.

Q. You think that there was some things that you didn't hear? A. Yes, sir.

Q. Did you hear Mr. Cobban hire Mr. Griswold?

A. No, sir.

Q. You know nothing about his being hired by Mr. Cobban except what was told to you either by Griswold or somebody else?

A. Well, that is all I—

Q. Never saw him at work for Mr. Cobban, did you?

A. No, sir.

Q. You never saw him paid his monthly stipend or otherwise, did you? A. No, sir.

(Testimony of Mrs. Eunice Knight.)

Q. Then you know nothing concerning that except what was told you by Mr. Griswold or by somebody else?

A. Mr. Griswold told me that he was connected with Mr. Cobban.

Q. Yes, but you never heard the bargain made between them when the transaction of hiring was had?

A. No, sir.

Q. And you never heard any conversation between Mr. Griswold and Mr. Cobban, by which you could say that Mr. Griswold was employed by Mr. Cobban?

A. No, sir.

Q. Now, what was the conversation that you had with this man, Webb, who said that it would be perjury for you to take up a claim, as these others were doing?

A. Why, when I was at Potomac last spring—

Q. In the first place, who is Mr. Webb?

A. Well, he was a man that has some mining interests at Copper Cliff, near there, about twelve miles from Missoula.

Q. What did he tell you?

A. Why, I was there teaching school, and I realized that I was in the timber belt—

Q. In the banana belt?

A. Yes, sir, and I said I didn't see why I couldn't have a claim up in that country as well as so many others that were coming there, and so many others that had been there. And he said to me, "Don't you

(Testimony of Mrs. Eunice Knight.)

understand that it isn't really lawful the way these people have taken up these timber claims?" I says, "I don't know why;" and he said, "Well, the way I understand the law, they are getting money, and they are committing perjury."

Q Was that all the conversation?

A. Yes. I said, "Well, I consider myself unfortunate." "Well," he said, "You can consider yourself fortunate because the United States won't let this thing go on."

Q. This was about the time the United States grand jury had indicted a number of people for making entries.

A. I don't know anything about it.

Q. Well, did he know anything about it?

A. I don't know whether he did or not.

Q. And that is all the conversation you had about it, is it, Mrs. Knight?

A. Well, we may have had other conversations, but that is all I can call to mind now.

Q. Is that the substance of the conversation?

A. Yes; that is the substance of the conversation.

EUNICE C. KNIGHT.

Subscribed and sworn to before me this 22d day of March, 1902.

HENRY N. BLAKE,
Examiner in Chancery.

Monday, March 24th, 1902, 10 A. M.

Hearing resumed pursuant to adjournment.

RECY M. JEMISON, a witness on behalf of the complainant, being first duly sworn, testified as follows:

Direct Examination.

Q. (Mr. MAYNARD.) Mrs. Jemison, what is your name? A. Recy M. Jemison.

Q. What was your maiden name?

A. Recy M. Mize.

Q. You are the wife of George P. Jemison, are you not? A. Yes, sir.

Q. When did you marry him?

A. I married him in 1891, I think.

Q. Where were you then living?

A. Near Victor, Montana.

Q. Are you a sister of Albert Jemison?

A. Sister in law.

Q. How old are you now? A. Twenty-eight.

Q. And you were married, when—how old were you when you were married? A. Seventeen.

Q. You married Mr. Jemison when you were seventeen years old? A. Yes, sir.

Q. Were you living with your parents at that time in the Bitterroot? A. Yes, sir.

Q. How many children have you? A. Two.

Q. Did you have any estate, real or personal, at the time you were married? A. No, sir.

Q. Have you acquired any since of your own?

(Testimony of Recy M. Jemison.)

A. No, sir; not of my own.

Q. I notice, Mrs. Jemison, that from the original papers in the land office, that on the 26th day of July, 1899, you filed in the land office at Missoula, a sworn statement under the Stone and Timber Act, or so-called. I will ask you if you recognize that as your signature?

A. Yes, sir.

Q. Do you know whose handwriting that is?

A. No; I do not.

Q. The balance of the statement? A. No, sir.

Q. Do you know where it was made out?

A. This is the filing?

Q. Yes; this paper, the filing paper.

A. The filing paper was made out at some office where Mr. Pound was.

Q. And did Major Pound fill it up?

A. I think he did; I could not say that Mr. Pound did, we was there where he was, I know.

Q. And the description of land contained in your statement, is, the south half of the southwest quarter and the south half of the southeast quarter of section 6, township 14 north, of range 15 west. Now, what would you be willing to state, Mrs. Jemison, in your own way the fact and circumstances which led up to this filing; who did you go up with into the mountains and how did you come back? A. From my home?

Q. Yes.

A. I went up with Mr. Jemison and Mr. and Mrs. Gilman in a wagon. The way we come to go up there,

(Testimony of Recy M. Jemison.)

Mrs. Roll got a letter from her mother to go up and take some timber land up there, where they lived; we had lived up there before and had been talking about taking up timber land, but we never took up any then, and after we found out that they were taking up there why we went up then and took up land.

Q. Mrs. Gilman—she was a Jemison, wasn't she?

A. Yes, sir.

Q. Mrs. Roll was a Jemison? A. Yes, sir.

Q. Did you see the lettre yourself? A. No, sir.

Q. Well, now, go on and state, please, what you did when you went up there?

A. Well, we went up there in a wagon and went to Mr. Jemison's folks, and Mr. Jemison, Mr. Gilman and Albert Jemison went out and took a look over the land, took down the numbers of the land; went to Missoula and filed and then we went home together to the Bitterroot.

Q. Now, then, what did you do? A. Yes, sir.

Q. You say you went back home to the Bitterroot? Then what did you do after that about your proving up?

A. Well, we stayed there in the Bitterroot on a farm we had rented until in August, Mr. and Mrs. Gilman and I went back up there; Mrs. Gilman and I had not been upon our claims and we went on our claims back up there; then on the 26th or 27th we went to Missoula to prove up; I think we proved up on the 29th.

Q. Do you know where the money came from that paid for your land?

(Testimony of Recy M. Jemison.)

A. Mr. Jemison borrowed it, with my understanding; he done all that business for me.

Q. Did you have anything to do with it yourself at all?

A. No, sir; not any of the business.

Q. Do I understand he had entire charge of the business for you?

A. Yes, he was proving up the same time, and he done it.

Q. And you deeded at the same time? A. Yes.

Q. Well, now, just state, Mrs. Jemison, what you did on the day that you proved up and deeded, as near as you can remember?

A. I don't really remember very much about it; at that day we went to Mr. Cobban's office in the morning and then we went to the land office.

Q. And then what?

A. Well, then we went home, as far as I remember.

Q. Which did you do first—go to the land office first or to Cobban's office first? A. Cobban's office.

Q. What did you go there for?

A. I went with Mr. Jemison; I don't know what he went for.

Q. What did you do there?

A. Didn't do anything.

Q. Well, did you go back to Cobban's office again after you proved up?

A. Not that I recollect of; I think we went from the land office right back to the Rankin hotel.

(Testimony of Recy M. Jemison.)

Q. Do you remember whether you sold your land the same day or not? A. Yes, sir.

Q. Whereabouts was that—where were you when you sold it? A. Well, Mr. Jemison sold mine.

Q. You were along, were you not?

A. Yes, sir; I was in Missoula with him.

Q. Don't you remember where you were when you signed your name to the deed? A. Cobban's office.

Q. Well, now then, I ask you if it was in Cobban's office, when was that, before or after you proved up that you signed your name to the deed?

A. It was afterwards; yes.

Q. So then you went to Cobban's office, then you went to the land office and back from the land office to Cobban's office? A. Yes, sir.

Q. And so far as how the money was obtained or paid, or anything of that kind, you don't know anything about it? A. Not positively, I don't.

Q. Did you pay out any money yourself at all, at any time? A. No, sir.

Q. Did you receive any money? A. No, sir.

Q. Never did receive any money? A. No, sir.

Q. Do I understand by that that your husband sold his piece and your piece and got the money for both?

A. Yes, sir; that is true.

Q. How much did he get?

A. I could not tell you because I don't know.

Q. He never told you? A. No, sir.

Q. Did you see him paid by Mr. Cobban?

(Testimony of Recy M. Jemison.)

A. No, sir; I did not; I never saw Mr. Cobban.

Q. Never saw Mr. Cobban at all?

A. In there; no, sir.

Q. Never had any talk with him? A. No, sir.

Q. Who was your talk with?

A. I don't recollect who it was. I know Mr. Pound was in there; that is the only one I recollect of being in there. I know there was another man in there, but who it was I could not tell you.

Q. Did you have any talk with him in regard to his business? A. No, sir.

Q. How long was it after you filed in the land office before you went up on the land?

A. We filed on the 26th day of July, I think; and it was the 23d day of August that we came back to Missoula. I don't remember just what day we was on the land up there, and proved up on the 29th day of September.

Q. You were up there all that time?

A. Up the Blackfoot?

Q. Yes? A. No, sir.

Q. What I asked you, you said, Mrs. Jemison, that at the time you filed, before you filed you had been up on the land, that you went back up afterwards and went upon the land? A. Yes, sir.

Q. Now, how long a time after you filed your statement in the land office before you went up?

A. Well, I filed the statement about the 26th day of July, I think, and it was in August between the 20th and 26th that I was on the land.

(Testimony of Recy M. Jemison.)

Q. That was the first time you were ever on the land?

A. Yes, sir.

Q. How long were you there?

A. We got to Mr. Jemison's that evening. I don't know what day of the month and the next day we went on the land, and the next day we started back to Missoula.

Q. That was the 26th of August?

A. Well, it was somewhere between the 20th and 26th.

Q. You hadn't been up there before at all?

A. Not on the land; I was up the Blackfoot.

Q. What did you do when you went out to the land?

A. Why, I went onto the land, to the numbers I had filed on.

Q. Who was with you? A. Mr. Jemison.

Q. Albert? A. Yes, sir.

Q. How long were you on the land?

A. Well, I don't know. I guess we were walking over it about an hour.

Q. Then you went back to Missoula?

A. Yes, sir.

Q. You and Albert were alone, were you?

A. Oh, no; we went back from off of the land down to Mr. Jemison's folks.

Q. I mean, when you were out on the land, you and Albert were alone together?

A. No, sir; there was Mr. Hendrix, Miss Olford, Mr. Farmer, and Mr. and Mrs. John Olford.

Q. What is her first name—Miss Olford?

A. I could not tell you.

(Testimony of Recy M. Jemison.)

Q. What is Mr. Hendrix's first name?

A. John Hendrix.

Q. John Hendrix? A. Yes, sir.

Q. What is Mrs. Olford's first name?

A. I don't know.

Q. Had you ever met her before? A. No, sir.

Q. Then there was Mr. and Mrs. John Olford?

A. Yes, sir.

Q. And who else? A. Mr. Farmer.

Q. What was his first name? A. I don't know.

Q. Who are these people, Mrs. Jemison?

A. People I met up at Blackfoot; I don't know who they are or anything about them.

Q. Did you ever see them before? A. No, sir.

Q. Do you know where they live? A. No, sir.

Q. What were they doing up there?

A. I really don't know; they were up there the one day in the timber with us.

Q. With you? A. Yes, sir.

Q. You and Albert? A. Yes, sir.

Q. Didn't they tell you what they were doing up there? A. No, they were strangers to me.

Q. You had no conversation with them in regard to their business there at all?

A. No, I believe not.

Q. Did you understand that they were taking up claims and making locations?

A. I believe Mr. Hendrix was, but I don't believe as far as any of the rest of them.

(Testimony of Recy M. Jemison.)

Q. Do you know where they live?

Mr. BICKFORD.—She has already answered that question, we object to it for that reason.

A. No, sir.

Q. This party that you have just spoken of their names with you at the time? A. Yes, sir.

Q. At the time you and Albert went up?

A. Yes, sir, we went on my claim.

Q. Then how far was it from Mr. Jemison's house?

A. It is hard to tell in the mountains, but I should say it was about three miles.

Q. Did you walk up there? A. Yes, sir.

Q. And walked back? A. Yes, sir.

Q. Now, just state what you did, please, when you walked up there with Albert; what did you do?

Mr. BICKFORD.—We object to that because the witness has already stated it.

A. Why, Mr. Albert Jameson had a compass in his hand; we went along some lines he was bringing; he showed me the compass, and I walked along with him and when we got there he showed me the number on a tree, and he says, "Now, you are on the land; look at your timber."

Q. What? A. Look at your timber.

Q. Then what did he do?

A. Oh, sat down there and ate lunch; we took that with us; came back home.

Q. Was your husband with you? A. No, sir.

Q. Well, did he go with any of the other members of

(Testimony of Recy M. Jemison.)

the party while you were along to some other locations that you can remember that day?

A. Yes, as we were going up, Mr. and Mrs. Gilman, he showed them where to go, and we went back, and we went on further; mine was further up in the mountains.

Q. Did you go with the party to any of these other locations?

A. No, sir, when we got there we went right back down to Mr. Jemisons, then that afternoon we started for home in the Bitterroot.

Q. Who told you, Mrs. Jemison, that after you had filed, some weeks afterwards as you have stated, you ought to go back and go over the land?

A. My father and Mrs. Roll.

Q. What did they say?

A. They wanted to know if I had been on the land and I wanted to know if I had to swear I had been on the land, and they said, "You do," and so I said, "I won't swear to any lie"; so I went back.

Q. Well, would you be willing to state, Mrs. Jemison, how it was that you did not get any money yourself for the sale of your land?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Why, Mr. Jemison sold it and he took the money; I did not care for it.

Q. And aren't you able to state how much he sold it for?

(Testimony of Recy M. Jemison.)

A. I was not with him when he sold it and don't know anything about it.

Q. During all this time, Mrs. Jemison, from the time of the going up there previous to your filing, your first visit up there in the Blackfoot, and your subsequent filing on the land, making the statement, during the sixty days that elapsed between that time and your proving up on your claim, and going up there as you have stated, you knew what was to be done with the land, didn't you?

Mr. WALSH.—We object to that as leading.

A. Why, we took it up, yes, sir; we did not have to keep it.

Q. What did you intend to do with it?

A. We intended to sell it, sell the timber.

Q. Who to? A. I don't know who to.

Q. Intended to sell the timber? A. Yes, sir.

Q. But to whom, you don't know? A. No, sir.

Q. How much was the talk among the party that they were to get for the timber?

Mr. WALSH.—We object to that for the reason that it is immaterial, irrelevant, incompetent and hearsay.

A. Get for the timber?

Q. Yes. A. I don't know, I am sure.

Q. You didn't hear anybody say anything about that?

A. No, sir.

Q. Did you know that when you did sell that you sold to Mr. Cobban?

A. No, I could not say that I did, because I did not

(Testimony of Recy M. Jemison.)

know Mr. Cobban, or anybody at all in Missoula, I did not know about him or anything about him.

Q. When were you to sell the timber, Mrs. Jemison?

Mr. WALSH.—We object to that for the reason that it does not ask for any fact.

A. When were we to sell the timber?

Q. Yes, that is when did you know you were to sell the timber?

A. We were supposed to sell it when we proved up, so as to pay what money we had borrowed; we did not have the money to prove up with; it takes quite a little bit of money to prove up.

Q. Pay back what you had borrowed, pay back the balance?

Mr. WALSH.—We object to this as leading, and for the further reason that it is a declaration of counsel and not a statement of any fact by the witness.

A. I suppose.

Q. That is what you understood?

Mr. WALSH.—We object to that as leading, and for the further reason that it is a declaration of counsel and not a statement of any fact by the witness.

A. As far as understanding, I don't know that I understood anything about it.

Q. Well, was there anything said in any way, Mrs. Jemison, by which you knew or had any understanding as to how much you were to get in cash over and above what the land was to cost?

(Testimony of Recy M. Jemison.)

Mr. WALSH.—We object to that as leading, and as immaterial and irrelevant.

A. No, we had been up there on the Blackfoot before and were going to take up land; there was nobody buying up there, nobody locating or anything, so we did not take it up.

Q. How many of your relatives or your husband's relatives that you know of took up claims under the same circumstances that you did?

Mr. WALSH.—We object to this upon the ground that it is immaterial and irrelevant and simply calls for the conclusion of the witness as to whether the circumstances attending the taking up of some other claim were the same as the circumstances attending the taking up of her claim.

A. Mrs. and Mr. Gilman, my husband.

Q. You know more, don't you?

Mr. WALSH.—We object to that as leading.

A. Only just what I heard them say.

Q. I mean from what you heard them say?

Mr. WALSH.—We object to that upon the ground that it is apparently hearsay, without leaving any source from which the hearsay comes.

Mr. MAYNARD.—I will withdraw that question.

Q. Don't you know, Mrs. Jemison, that there were fifteen or twenty?

Mr. WALSH.—He has not asked you any question yet.

Q. That there were fifteen or twenty of your relatives

(Testimony of Recy M. Jemison.)

on your own side and your husband's side that took up claims under this Stone and Timber Act so-called, during this spring, summer and fall?

Mr. WALSH.—We object to that as leading.

A. I have heard that they took up land, but I don't know under what circumstances.

Q. Took up land in the Blackfoot country?

A. Yes, sir.

Q. During this same season? A. Yes.

Q. Now, you went up with Mr. and Mrs. Gilman, and back again, didn't you?

A. Yes, sir; the second time I went up with them, and then back again; the first time they were with me and my husband.

Q. Did you know who they sold to?

A. No, I did not.

Q. What? A. No, sir.

Q. Did any of these relatives that you have now referred to in any conversation with you tell you how much they had received from Cobban?

Mr. WALSH.—We object to that upon the ground that it is immaterial and irrelevant, and for the further reason that it is leading.

A. No, sir.

Q. No one?

Mr. WALSH.—We object to that upon the ground that it is immaterial and irrelevant and for the further reason that it is leading.

(Testimony of Recy M. Jemison.)

A. No, sir, I am not very friendly with any of them.

Q. Not very friendly with any of them?

A. No, sir, they don't generally tell me their business.

Q. Now, were you at that time on friendly relations with your brother in law, Albert Jemison?

A. Yes, just passing.

Q. Just passing? A. Yes.

Q. Now, Mrs. Jemison, when you went up there with him and he told you, "you are on your land now," and you were eating your lunch there with him in the party, wasn't there anything said by him at any time to you in any way as to what you were to do with this land?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. No, sir.

Q. Not a thing?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. No, sir.

Q. Well, you had an idea at that time that you were to sell the timber, hadn't you?

Mr. WALSH.—We object to that question for the reason that it is leading and for the further reason that it is immaterial and irrelevant.

A. I knew that we would have to sell it if we proved up on it.

Q. Well, when did your husband first tell you that he

(Testimony of Recy M. Jemison.)

was going to get the money to pay for the land from Cobban?

A. He did not tell me at all he was going to get it from Cobban; told me he was going to borrow it.

Q. From whom? A. I don't know who.

Q. And so you went with him in the morning before you went to the land office to prove up, to Cobban's office? A. I believe so.

Q. Did you know what you went there for?

A. I went there with him.

Q. Do you know why he went there?

A. No, sir, we went there—it was my understanding we went there to get our papers made out.

Q. Did you get any money that morning?

A. No, sir, not in the morning, got no money.

Q. Did you see your husband get any money?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. No, sir, I did not.

Q. Do you know who paid the money into the land office?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial.

A. No, sir.

Q. Did you see any money paid into the land office?

Mr. WALSH.—We object to that question as irrelevant and immaterial.

A. No, sir.

(Testimony of Recy M. Jemison.)

Q. Did you see any papers of any kind during your visit at Cobban's office in the morning?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial.

A. Any papers?

Q. Yes. A. At Cobban's office?

Q. Yes, between yourselves in any way?

A. No, I don't think I did; not between me, I am sure.

Q. Did you sign any papers?

A. That morning, no, sir.

Q. Did you hear anything?

A. No, sir, not that I could remember. I was there with Effie, who was a baby then; I was sitting there holding her.

Q. What was done while you were there you don't know?

Mr. WALSH.—We object to that question for the reason that the same is irrelevant and immaterial.

A. No, sir.

Q. Have no knowledge of any kind as to what was done when you were there in the morning with your husband?

Mr. WALSH.—We object to this question for the reason that the same is irrelevant and immaterial.

A. No, I don't remember.

Q. And can't remember anything that was said or done by anybody?

(Testimony of Recy M. Jemison.)

Mr. WALSH.—We object to this question for the reason that the same is irrelevant and immaterial.

A. I said I didn't know nor hear anything said there that morning; nobody said anything to me.

Q. And then can you now state under the conditions that you have just referred to as to what you went there for?

Mr. WALSH.—We object to this for the reason that it has already been asked and answered by the witness.

A. I went there with my husband. When we went to the land office, I asked him if he wanted me to go with him and he said "yes." No, we were not at the hotel there; we camped out there.

Q. And didn't anybody ever tell you at all on that day that you were to sell to Cobban?

Mr. WALSH.—We object to this for the reason that it has already been asked and answered by the witness and also because it is leading.

A. No, sir; I did not know we were going to sell to Cobban; I didn't know anything about it at all.

Q. You sold to him without knowing it?

Mr. WALSH.—We object to this question for the reason that it has already been asked and answered by the witness and for the further ground that it is leading.

A. Mr. Jemison sold.

Q. He sold your piece too?

A. He sold my piece; I didn't have anything to do with it.

(Testimony of Recy M. Jemison.)

Q. And during all this summer, during all of this time that you were engaged in this business, you didn't hear from any of your relatives or from anybody in any way, shape or manner that this piece after you proved up was to be sold and you would get about a hundred dollars?

Mr. WALSH.—We object to that for the reason that it has already been asked and answered by the witness and on the further ground that it is leading.

A. No, sir.

Q. A hundred dollars was not referred to at all in any way, you never heard the same mentioned in connection with this business?

Mr. WALSH.—We object to this for the reason that it has already been asked and answered by the witness, and for the further reason that it is leading.

A. No, sir, I did not.

Q. And none of your relatives that had sold or did sell ever told you that they had received from Cobban about a hundred dollars?

Mr. WALSH.—We object to this question for the reason that it has already been asked and answered by the witness and for the further reason that it is leading.

A. Yes, sir.

Q. You swear to that?

Mr. WALSH.—We object to this questioin for the reason that it has already been asked and answered by the witness and for the further reason that it is leading.

(Testimony of Recy M. Jemison.)

A. I do not recollect of any of them ever telling me what they sold or who they sold to or anything about it.

Q. Didn't you ever ask your husband how much he got for the piece of land? A. No, sir.

Q. And he never spoke to you about it?

A. None of them told me how much they got for it.

Q. Were you not interested in any way in regard to the matter?

Mr. WALSH.—We object to this question for the reason that it has already been asked and answered by the witness and for the further reason that it is leading.

A. No, sir.

Cross-examination.

(By Mr. WALSH.)

Q. I understood you to say that you had, when you had formerly lived up in the Blackfoot, thought about taking a timber claim? A. Yes, sir.

Q. Do you know whether that country was surveyed at that time?

A. Yes, sir, it was for we were talking about taking it up then.

Q. But there was nobody in the market at that time for the purpose of buying timber claims at all, as I understand you?

A. They were not then, they had been logging there, it was up by Mr. Bryants, it was up the Clearwater a long ways over there.

(Testimony of Recy M. Jemison.)

Q. What was the reason you did not take up a claim prior to that time when you thought about it?

A. Because there was nobody logging.

Q. There was nobody buying timber in that particular locality at that time? A. No, sir.

Q. Now, when did you move to the Bitterroot from the Blackfoot?

A. I moved down from the Blackfoot three years ago last September.

Q. So you had been living in the Bitterroot about one year when you made these entries?

A. Yes, sir.

Q. You were working a rented farm in the Bitterroot at this time? A. Yes, sir.

Q. Whose farm was it?

A. Mr. Ed Keirns.

Q. What business was your husband engaged in up in the Blackfoot before you went to the Bitterroot?

A. Before we went to the Bitterroot?

Q. Yes.

A. Why, he had been working for Mr. William Dean; then he went up to Colona and put up a lodging-house, I think.

Q. What was the character of the work he was doing for Mr. Dean? A. Farm hand.

Q. You have cattle I suppose up on the farm that you work in the Bitterroot, Mrs. Jemison?

A. Yes, sir.

Q. Chickens? A. Yes, sir.

(Testimony of Recy M. Jemison.)

Q. Poultry generally about the farm?

A. We have cows, horses and chickens.

Q. What part of the work about the place do you do? A. Housekeeping.

Q. Keeping house? A. Yes, sir.

Q. Attending to the poultry, I suppose?

A. Yes, sir.

Q. Milk the cows? A. No, sir.

Q. Do you make any butter? A. Not now.

Q. Have you since you have been on the place?

A. Yes, sir.

Q. Sold the butter, I suppose? A. No, sir.

Q. Have you any fruit trees? A. No, sir.

Q. What is the character of the farming that you do chiefly?

A. Well, raising grain, hay and vegetables.

Q. Do you do any work connected with raising the vegetables? A. No, sir.

Q. Housework is your principal work?

A. Yes, sir.

Q. Who attends to the financial part of the operation of the farm, you or Mr. Jemison?

A. Mr. Jemison.

Q. Whatever you sell, he gets the money for it?

A. Whatever he sells, I never sell anything.

Q. That is, the whole money affairs of the household are managed by Mr. Jemison?

A. Yes, sir, entirely.

(Testimony of Recy M. Jemison.)

Q. And how did it come about that he sold your claim and got the money for it?

A. I don't know he sold it; that is all there is to it.

Q. You didn't think of prosecuting him from embezzling your money, did you?

A. No, sir, he sold with my consent.

Q. Perfectly satisfactory to you?

A. Yes, sir.

Q. Perfectly satisfactory to you that Mr. Jemison should sell your claim for whatever he thought it was worth? A. Yes, sir.

Q. Take the money and use it for whatever purposes your household needed? A. Yes, sir.

Q. Was that correct? A. Yes, sir, correct.

Q. Now, when you left home to go up for the purpose of taking up a claim, Mrs. Jemison, what talk or understanding was there between you and Mr. Jemison as to where you were going to borrow the money with which to make your final proof upon the claim?

A. There was no talk about that, about borrowing money or anything in that way, when he came home he said, "Now, we will go up and take up some timber claims, we have been talking about so long."

Q. From what source did you first learn that it would be possible to borrow the money from Mr. Cobban?

Mr. MAYNARD.—She says she never heard anything about it, never knew anything about it.

(Testimony of Recy M. Jemison.)

A. I didn't know we could borrow money from Mr. Cobban.

Q. Didn't know that at all?

A. No, sir, it has always been my understanding that you could borrow money to take up claims, and as far as Mr. Cobban was concerned I don't know that I ever heard about him before I took up a timber claim.

Q. Now, you are a citizen of the United States, Mrs. Jemison, at the time you took up this claim?

A. Yes, sir.

Q. And over the age of twenty-one years?

A. Yes, sir.

Q. You had never taken up a timber claim before that time? A. No, sir.

Q. What sort of a place was this that you took up, what was the character of the ground?

A. It was rough and hilly, and rocky, mountainous, lots of timber on it.

Q. Of what value or utility was it for agricultural purposes?

A. It was not any good for agriculture at all.

Q. And for what purpose apparently did it have any value at all?

A. For the timber there was on it.

Q. Had no value for any other purpose except the timber so far as you are able to discover?

A. No, sir.

Q. Do you remember how many of the corners of the

(Testimony of Recy M. Jemison.)

claim you went to when you went up with Albert to look at it after you had filed?

A. Well, I don't know; I don't remember just how it lay, but I know we went to the corner of the two forties, but whether it was in a square or not I don't know.

Q. What did you discover about the corners, Mrs. Jemison, how were the corners indicated?

A. Why, there was a blaze on the tree, as far as finding out anything more. Mr. Jemison just says to me, "Now, you are on your claim and these are the two corners."

Q. You say a blaze on the trees marking the corners, did you, of the two forties you were on?

A. Yes, sir.

Q. How old was your baby at the time that you made final proof?

A. What year was that in?

Q. September 28th, 1899, I think it was.

A. She wasn't two years old yet.

Q. How old is she now?

A. She is three.

Q. Three now?

A. She wasn't one year old.

Q. Did you have her with you at the time?

A. Yes, sir.

Q. Now, at the time you made your final proof did you say you were camping in Missoula or did you stay at the hotel?

(Testimony of Recy M. Jemison.)

A. We were camping in Missoula, went down in a wagon.

Q. Went down in a wagon? A. Yes, sir.

Q. Was that the first time you ever camped out?

A. No, sir, we camped out when we went up the Blackfcot two times.

Q. Both times? A. Yes, sir.

Q. Have you ever camped out before that time?

A. Camped before we went up the Blackfoot, when we went up there.

Q. Not an unusual thing for you then?

A. No, sir, we have been up and down over the Blackfoot five times and we camped out each time going and coming.

Q. When were these other times besides on the two occasions on which you say you were there in the summer of 1899?

A. We went up the Blackfoot six years ago, in the fall, in the fall we went up there, Phil worked in a logging camp that winter, went back the next spring.

Q. When had you ever been to this land that you took up other than the time that you first went up for the purpose of taking it up, when you were at Mr. Jemison's place, Mrs. Jemison?

A. I had been within sight of it, I guess, every time I had been up the Blackfoot; we went to Mr. Jemison's every time we went up there.

Q. So you were thoroughly familiar at the time you

(Testimony of Recy M. Jemison.)

filed on the land with the general character of the country, were you? A. Yes, sir.

Q. You knew that the entire country there was chiefly valuable for the timber on it? A. Yes, sir.

Q. You knew it was not adapted to agriculture or farming? A. Yes, sir.

Q. Now, Mrs. Jemison, I wish you would state what promise or agreement you ever made with anybody that you would convey this land to them after you had made the final proof upon it?

A. Had I made any promise or agreement—

Q. What promise or agreement you ever did make with anybody? A. Never made any.

Q. Now, you are sure, Mrs. Jemison, are you, that Albert did not hire you to take this land up for Mr. Cobban? A. Why, sure.

Q. And that Mr. Griswold did not?

A. Yes, sir, quite sure.

Q. Are you quite sure nobody hired you to take up this land for Mr. Cobban or anybody else?

A. Quite sure they didn't.

Q. That is a fact, isn't it? A. That is a fact.

Q. At the time you made your filing, Mrs. Jemison, it appears that you made the following affidavit: "That I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own use and benefit, and that I have not, directly or indirectly, made any agreement or contract, or in any way or manner with any person or persons whosoever, by

(Testimony of Recy M. Jemison.)

which the title that I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself." Is that true, Mrs. Jemison? A. Yes, sir.

Q. It appears, further, that at the time you made the final proof upon the land you were asked this question: "Have you sold or transferred your claim to this land since making your sworn statement, or have you directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which you may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except yourself?" To which you answered, "No"; is that true? A. Yes, sir.

Q. Then you were asked: "Do you make this entry in good faith for the appropriation of the land exclusively to your own use and not for the use of benefit of any other person?" to which you answered, "I do." Is that answer true? A. Yes, sir.

Q. You were then asked, "Has any other person than yourself, or has any firm, corporation, or association any interest in the entry you are now making, or in the land, or in the timber thereon?" to which you answered, "No." Is that true? A. That is true.

Q. Now, Mrs. Jemison, you tell us that you had yourself made no promise or agreement prior to the time that you made final proof that you would convey this land to anybody after you had made final proof; was that correct? A. That was correct.

(Testimony of Recy M. Jemison.)

Q. I wish you would tell us whether you ever authorized your husband or anybody else on your behalf to make any such promise or agreement for you?

A. No, I did not authorize them to make any agreement.

Q. Do you know Mr. Griswold? A. Yes, sir.

Q. This gentleman that sits over here?

A. Yes, sir.

Q. How long have you known him?

A. I have known him about six years.

Q. Where did you know him?

A. Up the Blackfoot, Clearwater.

Q. What was he doing up there when you knew him?

A. He was keeping a lodging-house, stopping-house on the Clearwater.

Q. Has Mr. Griswold called on you since you came here to attend as a witness in this case?

A. I don't think he has.

Q. Has he talked with you about this case?

A. No, I don't think he has talked to me about the case; he asked me if I wanted to see Albert Jemison's statement, and I told him I did.

Q. When was this? A. Yesterday morning.

Q. Yesterday morning Mr. Griswold came to you and asked you if you would like to see Albert Jemison's statement in this case?

A. I met him at the Majestic.

Q. You were rooming at that time at the Majestic?

(Testimony of Recy M. Jemison.)

A. Yes, sir.

Q. Is Mr. Griswold rooming there that you know of?

A. I think he is.

Q. You met him in the hall and he asked you if you would like to see Albert Jemison's statement in this case? A. Yes, sir.

Q. And you said you would? A. Yes, sir.

Q. What, if anything, did he say then?

A. Why, he showed me his statement where it was printed down about where he located me.

Q. What further did he say about this matter?

A. That was all; I think I asked him if he had Mr. and Mrs. Gilman's statement and he said he did not.

Q. Was that the whole substance of the conversation that you had with Mr. Griswold? A. Yes, sir.

Q. Are you still rooming at the Majestic?

A. No, sir, I am at the Cosmopolitan.

Q. How did you come to change?

A. They do not have meals at the Majestic.

Q. You found it more convenient to go to the hotel?

A. Yes, sir.

Q. Was that the only occasion in which Mr. Griswold talked with you since you have been here about this matter? A. Yes, sir.

Q. How did he come to introduce this subject of Albert Jemison's statement, Mrs. Jemison?

A. That was all; he just asked me if I wanted to see them.

(Testimony of Recy M. Jemison.)

Q. Did the conversation open with just that statement, or was there some prior talk about the case and then that followed?

A. No, that was what he asked me when I first met him.

Q. Well, you saw Albert Jemison's statement with reference to what he did in locating you, Mrs. Jemison?

A. Yes, sir.

Q. Well, would your testimony in this case have been any different at all if you had not read that?

A. Not a bit.

Q. It would not have made a bit of difference with you? A. Not a bit.

Q. You came here to tell the truth without any regard to what Albert Jemison said about the matter?

A. Yes, sir.

Q. The facts are as you have stated them?

A. Yes, sir.

Redirect Examination.

(By Mr. MAYNARD.)

Q. The fact is, Mrs. Jemison, that you did not know anything about this location except as Albert pointed it out to you, did you, when you went on your land?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial and incompetent and for the further reason that it is not proper redirect examination and is leading, and contrary to the statement of the witness who has already testified that

(Testimony of Recy M. Jemison.)

she had been within sight of this land repeatedly prior to that time and knew the general character of the country.

Mr. MAYNARD.—I am referring to this particular location, Mrs. Jemison.

A. The exact location of the one I didn't know anything about, but I knew just about where the line was, because it is on the mountain side from where Mr. Jemison lives.

Q. Who told you that it was up on the mountain side near where Mr. Jemison lives, who told you that?

A. The timber?

Q. Yes. A. You can see the timber from there.

Q. Who did tell you that your location was up on the mountain side except Albert Jemison?

A. Why, my husband.

Q. When?

A. After we went back down and before I had been up on it, he wanted to know if I knew where it was. I told him, no, not exactly, and he said it was up on that hillside, up from his father's; while we were up on the land there, we could look back and see the house on the ridge looking down.

Q. That is the information that you had?

A. Yes, sir.

Q. No more? A. No, sir.

Q. When did you come to town, Mrs. Jemison, to Helena? A. I came here on Thursday.

(Testimony of Recy M. Jemison.)

Q. Thursday of last week?

A. Friday—I started Thursday; I got in to Helena Friday evening.

Q. Who came with you?

A. I came by myself and my little girl.

Q. Who met you at the station? A. Nobody.

Q. You saw Mr. Cobban, didn't you, shortly after reaching town?

A. I saw him that evening. Mr. Gage met me when I got off the street-car here. I saw Mr. Gage and I knew him and I asked him where I should go and he came with me up here; presented me to the Judge.

Q. That was in the afternoon? A. Yes.

Q. What time?

A. Between four and five, I think.

Q. Friday afternoon? A. Yes, sir.

Q. Who took you to your hotel? A. Mr. Gage.

Q. When did you see Mr. Cobban?

A. I saw him the same evening.

Q. Whereabouts? A. At the Majestic.

Q. At your hotel? A. At the lodging-house.

Q. In your room? A. No, sir.

Q. Whereabouts? A. In the hall.

Q. You had had no acquaintance with him any time before that, had you? A. No, sir.

Q. Did he introduce himself to you?

A. Mr. Gage.

Q. Mr. Gage introduced Mr. Cobban to you?

(Testimony of Recy M. Jemison.)

A. No, he did not introduce me, there was no introducing at all, Mr. Gage told me that was Mr. Cobban going down the street, told me that was Mr. Cobban, right down here on the corner.

Q. Had you asked to see Mr. Cobban?

A. No, sir.

Q. Do you know how Mr. Gage, deputy United States marshal happened to point out Mr. Cobban to you?

A. Yes, sir, we was standing on the steps out here, and he says there is Mr. Cobban, he wants to see you.

Q. Oh, he wants to see you?

A. Inquired after me, something like that; I don't know exactly.

Q. Then, as I understand you, Mr. Gage, the deputy United States marshal informed you of the fact that Mr. Cobban, the defendant in this case, wanted to see you?

Mr. WALSH.—We object to this as leading, as a repetition of what the witness has stated, and as argumentative.

A. I could not tell you what it was. I met him here on the corner and he says, "There is Mr. Cobban; he wants to see you, wants to speak to you," something to that effect. He was standing on the steps; he was up in the hall and when I went up I knew it was the same man.

Q. And when you went up into your room or started to go to your room, you met Mr. Cobban in the hall?

(Testimony of Recy M. Jemison.)

A. Yes, sir.

Q. He was standing there in the hall?

A. Yes, sir.

Q. Who was with him? A. Nobody.

Q. What conversation did you have with him there?

A. Well, he says to me, he says, "You are Mrs. Jemison?" I says, "I am." He wanted to know if my husband had got home. I told him yes. He wanted to know if I had to come over here, and I told him I had; he said he was sorry I had to come; said something about my little girl being sick, having a sore throat. I wanted to know where the office of Mr. Walsh was and he said he would take me to it.

Q. Who had told you to go to Mr. Walsh's office?

A. My husband.

Q. Previous to your leaving home? A. Yes, sir.

Q. And then you and Cobban went to Mr. Walsh's office? A. We did.

Q. You had never seen Mr. Walsh before, had you?

A. No, sir.

Q. Then, you talked over this matter of your testimony here, did you?

A. Mr. Walsh asked me if I took up a timber claim and I told him I had.

Q. That was all that was said?

A. He wanted to know if I knew I was going to get the money, how it was about obtaining money. I told

(Testimony of Recy M. Jemison.)

him I did not and that I did not know Mr. Cobban until I met him in Helena.

Q. How long were you in consultation with Mr. Walsh in the presence of Mr. Cobban?

A. I don't think I was there more than five or ten minutes. I did not go there to consult him or anything about it.

Q. You went there because your husband told you to go there? A. Yes, sir.

Q. You were arrested for perjury in this case, were you not? A. No, sir.

Q. You were not? A. No, sir.

Q. Was your husband? A. Yes, sir.

Q. You were not? A. No, sir.

Q. You remember your husband coming here?

A. Yes, sir.

Q. Did you come with him? A. No, sir.

Q. Then, that was Friday afternoon, was it, that you went with Cobban to your lawyer, Mr. Walsh?

A. Yes, it was Friday.

Q. Then when did you see Mr. Cobban again?

A. I did not see him until I saw him here in the court room.

Q. When, Saturday morning?

A. Yes, Saturday morning.

Q. How many consulations have you had with him since? A. I have not had any.

Q. No talks with him?

(Testimony of Recy M. Jemison.)

A. I have had talks with him because when in the afternoon my little girl had earache he went with me over to the drugstore and got some earache medicine and some cough medicine and he brought it up, and Sunday morning he came to inquire about her.

Q. Who paid for the medicine?

A. I suppose I will because I have not paid for it, because I have not any money.

(At this point Mr. Walsh asked to have inserted in the record that Mrs. Jemison's little girl, three years old, said, "Mr. Cobban gave me some candy; when I said I wanted some candy he gave me some.")

Recross-examination.

(By Mr. WALSH.)

Q. You have never heard it was any kind of a crime to come up to my office and talk to me, have you?

A. No, sir, I have not.

Q. I did not tell you to come down here and commit perjury, did I? A. No, sir.

Q. Asked you about what the facts and circumstances connected with your entry was, didn't I?

A. Yes, sir.

Q. And you told them to me briefly and about substantially the same as you have told them on the witness stand here, didn't you?

A. Yes, sir, I did.

RECY M. JEMISON.

Subscribed and sworn to before me this 25th day of March, A. D. 1902.

HENRY N. BLAKE,
Examiner.

In the Circuit Court of the United States, Ninth Circuit, District of Montana.

THE UNITED STATES,
vs.
WILLIAM A. CLARK.

Certificate of Master in Chancery.

To the Honorable, the Judges of the Above-entitled Court:

I do hereby certify that under the order of said court, made and entered in said cause, upon the first day of October, 1901, and in pursuance of the stipulations and agreements of the above-named parties, I continued to take the testimony therein, at my office, in the city of Helena, in said district; that Charles H. Cooper and C. F. Blair, heretofore appointed stenographers, took the testimony of the witnesses in shorthand and transcribed the same; that the following named porsons, personally appeared before me, and were duly sworn to testify the truth, the whole truth, and nothing but the truth, to wit: Chauncey L. Griswold, Charles F. Gage, Elias A. Reeve, John B. Reeve, George W. Sproule, N. R. Stairs, Mary A. Starkie, Robert Starkie, Alfred Stewart and Mrs. Lizzie A. Wells.

That said witnesses were examined by counsel for the respective parties, and their testimony is contained in this volume, viz., 6, on pages 2916 to 3556, inclusive; that said witnesses, with the exception of George N. Sproule and M. R. Stairs, read, corrected and subscribed and verified their testimony before me at the times mentioned; and that by the stipulation of the parties, I certified that the testimony of said Sproule and said Stairs had been correctly transcribed, after the correction and reading thereof.

Complainant's Exhibits number 202 and 203, and Defendant's Exhibits Nos. 201, 204 and 205 and 206 are herewith filed.

HENRY N. BLAKE,
Standing Master in Chancery and Examiner.

Dated this 4th day of April, 1902.

ROBERT STARKIE, a witness called by the complainant, being first duly sworn by the Examiner, testified as follows:

Q. What is your name?

A. Robert Starkie.

Q. How old are you?

A. I was born in 1867.

Q. What is that? A. I was born in 1867.

Q. Born in 1867 you say? A. Yes, sir.

Q. Whereabouts were you born?

A. Born in England.

Q. When did you come to this country, to the United States? A. In 1889.

Q. In 1881, did you say? A. In 1889.

(Testimony of Robert Starkie.)

Q. When did you come to Montana?

A. 1901 I think—1891, I mean.

Q. In 1891?

A. Yes; I think it was or 1892—either 1891 or 1892.

Q. Were you then an unmarried man?

A. Yes, sir.

Q. Did you come alone? A. Yes, sir.

Q. Where did you locate first? A. In Helena.

Q. What did you do here?

A. Oh, I stayed here. I worked for Herbert B. Reed, a real estate agent.

Q. Well, what doing?

A. Well, I run that Woodlawn 'bus for a little over a year.

Q. The Woodlawn 'bus?

A. Yes, that 'bus that runs out to the Woodlawn Park.

Q. Where was that?

A. That was down here by Woodlawn, in Woodlawn Park Addition.

Q. Down where?

A. Down here by the fair grounds.

Q. Did you work by the day or by the month?

A. By the month.

Q. Who else did you work for?

A. Here in Helena—why, I worked—let me see, I worked for a man by the name of Dolphin.

Q. What did you do for him?

A. Well, I was helping to cook—second cook.

Q. Well, what in?

(Testimony of Robert Starkie.)

A. Well, in this restaurant down here.

Q. You were second cook in a restaurant?

A. In a hotel down here below the Belvedere House, or rather, the Windsor House.

Q. Then what next did you do?

A. I left here then and went over to Elliston.

Q. What did you do there?

A. Worked on a ranch. I had a ranch rented. I rented a place there.

Q. Then where did you go?

A. Went to Deer Lodge.

Q. And then where did you go?

A. Went to Missoula then.

Q. From Helena to Elliston; Elliston to Deer Lodge, and from Deer Lodge to Missoula?

A. No, sir; I went from Deer Lodge to Hamilton.

Q. And then from Hamilton where did you go?

A. Went from Hamilton to Missoula.

Q. And then from Missoula where?

A. And then from Missoula to Long Valley, Boise County, Idaho.

Q. Long Valley, Boise County, Idaho?

A. Yes, sir.

Q. And there is where you are living now?

A. Yes, sir.

Q. And there is where you came from to testify in this case?

A. Yes, sir, that is where my home is. I have got a claim there, a homestead.

Q. Well, now you are a married man, are you?

(Testimony of Robert Starkie.)

A. Yes, sir.

Q. And your wife's name was Miss Reeve?

A. Yes, sir.

Q. Elisa? A. No, sir. Mary A. that was her—

Q. Her maiden name? A. Yes, sir.

Q. When did you marry her?

A. In 1894, yes, 1894.

Q. Whereabouts did you marry her?

A. In Deer Lodge.

Q. Her father's name was John B. Reeve, was it?

A. Yes, sir.

Q. And her mother's name is what?

A. Elizabeth A. Reeve.

Q. And your wife's sister's name is what?

A. Ehle.

Q. What is her first name?

A. Nellie J.—Nellie J. Ehle.

Q. Yes, sir, and her husband's name is Albert Ehle.

A. Albert Ehle, yes, sir.

Q. Did these people that you have just named, your father in law and your mother in law and your brother in law, and your wife, come here with you from Idaho?

A. Yes, sir.

Q. And are here in the courtroom with you now?

A. Yes, sir.

Q. There are six of you? A. Yes, sir.

Q. And you all took up claims under the Stone and Timber Act? A. Yes, sir.

Q. In the year 1899? A. Yes, sir.

(Testimony of Robert Starkie.)

Q. Where were you living then?

A. At Missoula.

Q. What were you doing there?

A. Well, at that time I was working around Missoula, laboring.

Q. What, what were you doing?

A. I was just a common laborer working around Missoula at that time.

Q. A common laborer working around Missoula?

A. Yes, sir. No—I was living up in—no, I was living eight miles from Missoula at that time. I will take that back.

Q. What were you doing?

A. I was living on a piece of land and hauling cordwood.

Q. Renting a piece of land?

A. Yes, sir, it was a piece of railroad land. I just squatted on it.

Q. You just squatted on it?

A. Yes, sir. I bought a man out, bought out his improvements.

Q. You bought his squatter rights?

A. Yes, sir.

Q. How long did you live there?

A. I lived there about a year and a half, I think.

Q. And you were living there at the time that you went up in the Blackfoot country to file?

A. Yes, sir, I was then. I was living in Missoula, but I wasn't—

(Testimony of Robert Starkie.)

Q. When did you and your party arrive from Idaho?

A. Yesterday.

Q. What time did you arrive?

A. About noon, on this train that came in on the Great Northern.

Q. From Butte? A. Yes, sir.

Q. Who met you at the depot? A. Who met us?

Q. Yes, was Mr. Cobban there?

A. I saw Cobban come up on the car that I came up in.

Q. Came up on the street car with you?

A. Yes, sir, came from the station.

Q. He came from the station?

A. I saw him in the car, yes, sir.

Q. You saw him in the car, you say?

A. Yes, sir.

Q. That is, you and Cobban and the car came up from the station—you and Mr. Cobban came up in the same street car?

By Mr. WALSH.—We object to that as being leading.

A. Yes, sir.

Q. Is that the first time that you saw him?

A. Yes, sir.

Q. That was when he was in the street car?

A. Well, I saw him get into the car at the depot.

Q. You saw him get into the car at the depot?

A. Yes, he was at the front end of the car and I was on the platform.

(Testimony of Robert Starkie.)

Q. Then Mr. Cobban was at the depot at the time the train arrived here, was he not?

By Mr. WALSH.—That is objected to also as leading.

A. I couldn't say as to that.

Q Was the train in when the street car started?

By Mr WALSH.—We object to that as being leading, and also for the reason that it is irrelevant and immaterial.

A. When the street-car started up here?

Q. Yes. Q. Why certainly.

Q. Well, was the train standing there still?

By Mr. WALSH.—We object to that also on the ground that it is irrelevant and immaterial and leading.

A. Yes, sir.

Q. Well, if the train was standing there at the station, that you came in on, with the party, and at the time that you took the street-car to come up town you saw Mr. Cobban get onto the car at the station, you would conclude from that, would you not, that he was at the station when you arrived?

By Mr. BICKFORD.—We object to that for the reason that it is leading, and further that it is irrelevant and immaterial, and does not prove or tend to prove any of the issues made by the pleadings in this case.

By Mr. WALSH.—And further that it calls for a conclusion for the witness and not for a fact.

A. He didn't come on the train that we did.

(Testimony of Robert Starkie.)

Q. I didn't ask you that. I asked you if he was at the station at the time that you came in.

A. I don't know. I didn't see him when the train came in or when I got off the train.

Q. Well, when you get off the train, you get onto the street car, didn't you?

By Mr. WALSH.—We object to that for the reason that it is leading and irrelevant and immaterial, and calls for a conclusion from the witness.

A. Yes, sir.

Q. And you saw Cobban get onto the street car?

By Mr. WALSH.—We object to that as being leading.

A. Yes, he got on the street car with me, I believe, I was behind.

Q. Who was he with, your father in law, John B. Reeve? A. He was talking with him.

Q. Talking with Reeve, your father in law, that came in with you?

By Mr. WALSH.—We object to that as being leading, and further upon the ground that it is irrelevant and immaterial.

Q. Where did you go, your party?

A. To the Cosmopolitan Hotel.

Q. Did you see Mr. Cobban there?

By Mr. WALSH.—We object to that as being leading.

A. No, sir.

Q. Did you see Cobban at the hotel?

(Testimony of Robert Starkie.)

A I think he had dinner there yesterday. I saw him eating dinner.

Q. You mean the noon meal?

A. Yes, sir. I was at the upper end of the dining room, and if I remember, I saw him up there by the door.

Q. In other words, they were taking dinner in the same room?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial and leading.

A. Yes, sir.

Q. Did Cobban afterwards go with you to Mr. Walsh's office, Mr. Starkie?

By Mr. BICKFORD.—We object to that as being leading.

Q. When was that?

A. When we was coming down here.

Q. Was that yesterday afternoon or last night or this morning?

A. Why, I stopped there at the office when I was coming up.

Q. This morning, do you mean? A. No, sir.

Q. When you say coming up, do you mean coming up from the depot?

A. No, when we was coming up here yesterday after dinner.

Q. That is, just after you got your dinner, then you went to Mr. Walsh's law office?

(Testimony of Robert Starkie.)

By Mr. WALSH.—We object to that as irrelevant and immaterial and leading.

A. Yes, sir.

Q. And then you came to the Examiner's room here, did you?

By Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. Was Mr. Cobban with you?

By Mr. WALSH.—That is objected to as being leading.

A. He was there in the office.

Q. Yes, he was there in the office. He went there with you, did he not?

By Mr. WALSH.—We object to that as being leading.

A. He was there, or else he came in afterwards—I don't know whether he was there ahead of me or whether he came in afterwards. I think he was there ahead of us.

Q. And was there during the time that you were in consultation with Mr. Walsh?

By Mr. WALSH.—We object to that as being leading.

A. Yes, sir.

Q. Your entire party?

By Mr. WALSH.—That is objected to as leading.

A. Yes, sir.

Q. Now, Mr. Starkie, you say that you were out on this squatter's claim at the time that you went up into the mountains? A. Yes, sir.

(Testimony of Robert Starkie.)

Q. To take up this claim that you afterwards took up?

By Mr. WALSH.—We object to that for the reason that it is leading. It is also irrelevant and immaterial.

A. Yes, sir.

Q. Who first spoke to you about taking up a claim?

A. Mr. Reeve first spoke to me about it.

Q. Your father in law? A. Yes, sir.

Q. Where was he? A. He was in Missoula.

Q. Was he living in Missoula at that time?

A. No, sir; he was living up there at the same place I was.

Q. What was he doing?

A. We were all hauling cordwood together.

Q. He was hauling cordwood, too?

By Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. Was he living with his wife at that time?

A. Yes, sir.

Q. Was he living in the same house?

By Mr. WALSH.—We object to that as leading.

A. Well, we were all living in the same house, but not in the same room. It was a large house. It was a seven room house.

Q. Yes, both your families were keeping house at the same time in there? A. Yes, sir.

By Mr. WALSH.—We object to the question for the reason that it is leading, and irrelevant and immaterial.

(Testimony of Robert Starkie.)

Q. That is, your father in law and your mother in law and your wife and yourself?

By Mr. WALSH.—That is objected to also upon the ground that it is irrelevant and immaterial, and further, it is leading.

Q. And your father in law, was the one that spoke to you first about it.

By Mr. WALSH.—That is objected to also upon the ground that it is irrelevant and immaterial and further it is leading.

Q. What did he say to you?

A. He asked me if I wanted to take up a timber claim.

Q. Well, go on and tell what the conversation was that you had there.

A. He asked me if I wanted to take up a timber claim and what I—

Q. What is that, go on and state what was said.

A. He said that we could get some good claims up in the Blackfoot country; that timber was going to be valuable, and that we had better, each of us go and take a claim up in there. That timber land was getting scarce.

Q. Well, what of it—what became of it?

A. Well, we concluded to do that.

Q. What is that?

A. I concluded that it would be a good thing for us to have a timber claim.

(Testimony of Robert Starkie.)

Q. You thought it would be a good thing to get a timber claim? A. Yes, sir.

Q. Of course you did.

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. Yes, sir.

Q. At that time you didn't have a dollar in the world, did you?

By Mr. WALSH.—We object to that for the reason that it is leading, and further it is immaterial and irrelevant.

A. Yes, sir.

Q. How many dollars did you have?

A. I don't just remember.

Q. You don't just remember?

A. No, sir. I couldn't say how much I did have.

Q. Well, will you swear that you had $25.00 laid up?

By Mr. BICKFORD.—That is also objected to for the reason that it is leading, and further it is irrelevant and immaterial and does not prove or tend to prove any of the issues in this case.

A. At that time?

Q. Yes, sir; at that time. A. Yes, sir.

Q. You will not swear that you had $25.00 land up, will you? A. Yes, sir.

Q. Where was it? A. It was here in the house.

Q. How much more did you have laid up?

A. I don't remember.

(Testimony of Robert Starkie.)

Q. You don't remember that?

A. No, sir; I do not.

Q. Well, if you don't remember that, how do you remember that you had $25.00?

A. Well, I will swear that I had that much anyway.

Q. Well, will you name any amount that you will swear that you had any in addition to that?

A. No.

Q. You had no real property at the time, any land?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and has no bearing upon the issues in this case.

A. No, sir.

Q. Nor any personal property?

By Mr. BICKFORD.—We object to that also upon the ground that it is irrelevant and immaterial, and does not prove or tend to prove any of the issues made by the pleadings in this case.

A. Yes, sir.

Q. What did you own at that time, name it?

A. I owned improvements that was on the place, what do you call that?

Q. Well, what do you mean by improvements, what were the improvements?

A. Buildings, barns, houses and out-buildings and things of that kind.

Q. Who did you buy it from?

A. I bought it from a man by the name of Jewett.

Q. Do you know where he is now?

(Testimony of Robert Starkie.)

A. I think that he is in Idaho, in Weeser, Idaho.

Q. How far from where you are now living?

A. Oh, about forty miles, I should say.

Q. Do you own them now? A. Yes, sir.

Q. Well, how did you get them?

A. I traded for them.

Q. What did you give in the trade?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not prove, or tend to prove, any of the issues in this case.

A. I traded for—I traded with different parties for the improvements they were on school land. A man leased the school land and then I left there and went to Long Valley and I traded part of the improvements to the men that got the place from these other parties.

Q. Tell me, now, particularly what you traded.

By Mr. BICKFORD.—We object to that for the reason that it has no bearing upon any of the issues made by the pleadings in this case, and it is irrelevant and immaterial.

A. Well, I traded some of the lumber for a team and harness.

Q. Some of the lumber—what lumber do you mean?

A. Lumber off the buildings.

Q. In tearing down the barn and turning it into lumber then you traded that lumber for what?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not

(Testimony of Robert Starkie.)

prove or tend to prove any issue made by the pleadings in this case.

A. Traded for a harness.

Q. For a harness? A. Yes, sir.

Q. Very well, what else?

By Mr. BICKFORD.—That is also objected to upon the ground that it is irrelevant and immaterial, and does not prove or tend to prove any of the issues raised by the pleadings in this case.

A. I traded the fencing.

Q. In tearing down the fencing, did you tear the fencing down? A. No, I didn't tear it down.

Q. Well, you traded such fence as you had there?

A. Yes, sir.

Q. Well, for what did you trade?

A. I traded it for a buggy.

Q. Well, go on and state what else?

A. And a rifle. I forget what I did get altogether.

Q. A rifle for what?

A. Well, I traded for a part of wagon, too.

Q. A part of a wagon?

Q. Yes, I had a wagon there, and another man had one just like it, but he wanted my wagon to fix his up with, and out of the two we could make one good wagon. There was lots of thing that I left there, that I didn't haul away.

Q. That you just left there?

A. Yes, I left them. A man that lives in the coun-

(Testimony of Robert Starkie.)

try, he cannot take everything along with him, if he cannot sell it he might as well leave it there.

Q. Now, you have stated to the best of your knowledge what you had there, and what you traded and what you sold? A. Yes, sir.

Q. Well, now, how were you going to buy that land?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial and has nothing whatever to do with the issues raised by the pleadings in this case.

A. I was going to borrow the money.

Q. You were going to borrow the money?

A. Yes, sir.

Q. When your father in law came home, and when you and your father in law came home you thought it would be a good thing for each of you to take up a claim, then you thought it would be a good thing to borrow the money if you could?

A. Borrow the money.

Q. Yes, if you could borrow the money.

A. Yes, we thought it would be a good thing to take up a claim.

Q. Well, didn't you ask him, when he came home, and said it would be a good thing, where are we going to borrow the money from? A. Yes, sir.

Q. What did he say?

A. Talking with Mr. Cobban; Mr. Cobban told him he would loan him the money.

(Testimony of Robert Starkie.)

Q. So, the first time you knew anything about was when he came home and told you this, and then you thought Cobban would loan you the money?

A. He was in Missoula at the time.

Q. Oh, you were in Missoula? A. Yes, sir.

Q. Who was present? A. Mr. Reeve and I.

Q. Whereabouts were you?

A. On Higgins avenue.

Q. You were on the street, then? A. Yes, sir.

Q. And he came to you and told you?

By Mr. BICKFORD.—We object to that for the reason that it is hearsay, and upon the further ground that it is irrelevant and immaterial, and does not prove, or tend to prove, in any way, the issues in this case.

A. Yes, sir.

Q. And that is the first you ever heard of him about it?

By Mr. BICKFORD.—We object to that also upon the ground that it is irrelevant and immaterial what the witness thought.

A. Yes. sir.

Q. Had you seen Cobban before this, to have any business with him, I mean?

By Mr. BICKFORD.—We object to that also upon the ground that it is irrelevant and immaterial, and has no bearing upon any of the issues in this case.

Q. Did you see him on that day? A. No, sir.

(Testimony of Robert Starkie.)

Q. Well, when did you first see him to have any business with him?

A. Well, when I went there to see about the money, to see if we could borrow the money.

Q. Who went with you to see him about borrowing the money? A. Mr. Reeve and I together.

Q. How long after it was it that Reeve told you that you could get the money from Mr. Cobban?

A. Three or four days, I should judge.

Q. Three or four days, you think? A. Yes, sir.

Q. That is, before you went up into the country at all? A. Yes, sir.

Q. Before you found out you could get that money you went up to locate?

By Mr. WALSH.—We object to that upon the ground that it is leading, and further for the reason that it is irrelevant and immaterial.

A. Yes, sir.

Q. You and Reeve went up to see Mr. Cobban?

By Mr. WALSH.—We object to that upon the ground that it is leading, and further for the reason that it is irrelevant and immaterial.

A. We went up to see if we could borrow the money.

Q. Who was there?

A. Mr. Cobban and Mr. Reeve.

Q. Where did you come from when you went to the office to see Mr. Cobban?

(Testimony of Robert Starkie.)

A. Why, we was in town on business.

Q. You were in town on business? A. Yes, sir.

Q. What other business did you have in town except to go to see Mr. Cobban?

By Mr. WALSH.—We object to that upon the ground that it is entirely irrelevant and immaterial as to what other business the witness had when he came in town at the time mentioned.

A. We were hauling cordwood.

Q. Hauling cordwood every day?

A. Well, we had a lot, I don't know; we didn't go in town every day.

Q. Whenever you had a load of cordwood to sell you would go to town?

By Mr. BICKFORD.—We object to that as being leading.

A. Yes, we would have to get groceries and one thing and another, and we would take in a load of cordwood. We made about three trips a week. That is about what we made.

Q. Where were you getting this cordwood from?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial where they got the cordwood.

A. Cutting it on Government land away back on top of the mountain.

Q. You went up on the Government lands and cut

(Testimony of Robert Starkie.)

the trees down, and converted them into cordwood and sold it?

By Mr. WALSH.—We object to that for the reason that it is leading, and upon the further ground that it is irrelevant and immaterial.

A. Dead trees and dry timber.

Q. Anybody give you any permit for that?

By Mr. WALSH.—We object to that as being irrelevant and immaterial, and concerning altogether a collateral matter, and this is not a general investigating inquiry to ascertain about general incursions upon the public domain and timber lands upon the public domain, etc.

A. We cut most of our wood on railroad land.

Q. In the same kind of way?

A. Yes, we had permission.

Q. Had permission from the railroads?

A. Yes, sir.

Q. But not from the Government?

A. From the railroad agent. We asked him if we could cut out timber, timber that was dead, you know, dry.

Q. And you went on these trips to town with this wood that you got in this way, and you say that you and your father in law, Reeve, went up into Cobban's office, and before you ever went up into the mountains before?

By Mr. WALSH.—We object to that, first, because it

(Testimony of Robert Starkie.)

is leading, and second, this witness has not said that he went to Mr. Cobban's office.

By Mr. MAYNARD.—I say that he has stated it.

A. Yes, sir.

Q. Did you not, Mr. Starkie? A. Yes, sir.

Q. And for what purpose did you and Reeve go up there?

A. To look at the timber, to see the timber lands.

Q. Well, you didn't go up into Cobban's office to look at the timber?

A. Oh, excuse me, I thought you meant to go up into the mountains. I meant to say that we went to see if we could borrow the money from Mr. Cobban.

Q. Was this the first or the second time that Reeve told you that you could borrow the money from Mr. Cobban?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and has nothing to do with the issues in this case.

A. The first time.

Q. The first time, how many days afterwards, was it, that he met you on the street and told you?

A. I should judge two or three days.

Q. Well, now, if your father in law, Reeve—if Cobban had already told Reeve that he would give him the money, why did you go up again to see Cobban?

A. I didn't know that he had, for certain.

(Testimony of Robert Starkie.)

Q. What makes you say that he had told you so?

A. Well, he said he thought he could get it from Cobban. That he thought he could get this money from Cobban, borrow it.

Q. Well, do you mean to be understood as saying that after you were met on the street by your father in law in Missoula and he told you that Cobban would let you have the money, did you mean that or not?

A. I meant that Mr. Reeve had been talking with Cobban and then I went in to see him.

Q. You went in with him?

A. I went in with Mr. Reeve to see if we could get the money from Mr. Cobban.

Q. Did you go on your own account, or as a companion for Reeve?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial.

A. I went in to see if I could borrow the money.

Q. Then you went yourself?

By Mr. WALSH.—We object to the question for the reason that it is leading, and further upon the ground that it is irrelevant and immaterial.

A. We both went together. We went both together when we went to take up a claim.

Q. Now, go on and state whether you had ever seen Mr. Cobban before? A. No, sir.

Q. Well, what did you say to him then?

(Testimony of Robert Starkie.)

A. I asked him if he would loan us the money.

Q. If he would loan you the money?

A. Yes, sir, to buy the timber claim with.

Q. To buy what timber?

A. That I was going to take up.

Q. But which you had never seen?

By Mr. WALSH.—We object to that as being irrelevant and immaterial to the issues in this case.

A. Because if I saw one that I would want I was going up to see it.

Q. In other words, you informed him that you had in mind going up into the Blackfoot country, into the mountains, to look at timber?

By Mr. WALSH.—We object to that also for the reason that it is leading, and further it is irrelevant and immaterial to the issues in this case.

A. Yes, sir.

Q. And that after you saw your claim, if it satisfied you, if he would loan you the money on it, that is the way you wish to be understood?

By Mr. WALSH.—We object to that on the ground that it is leading, and further it is irrelevant and immaterial.

A. Yes, sir.

Q. And he told you, yes?

By Mr. WALSH.—We object to that on the ground

(Testimony of Robert Starkie.)

that it is leading, and further it is irrelevant and immaterial.

Q. Did he tell you yes?

By Mr. WALSH.—We object to that on the ground that it is leading, and further it is irrelevant and immaterial.

A. Yes, sir.

Q. Did you tell him you were going to get one for your father and mother in law, and your brother in law and your sister in law?

By Mr. WALSH.—We object to that on the ground that it is leading, and further it is irrelevant and immaterial.

A. No, sir.

Q. You didn't tell him that? A. No, sir.

Q. Were you with hem when they went to Cobban's office?

By Mr. WALSH.—We object to that as being leading.

A. With who, do you mean?

Q. With the people that I have just referred to that were named by you, and who were talking or thinking about taking up a claim.

By Mr. WALSH.—We object to that upon the ground that it is leading.

A. No, sir.

Q. You weren't with them?

By Mr. WALSH.—We object to that as being leading.

A. No, sir.

(Testimony of Robert Starkie.)

Q. But Cobban informed you and Reeve also there that he would let you have the money?

By Mr. BICKFORD.—That is objected to also as leading.

A. Mr. Ehle.

Q. I don't mean Ehle; I mean your father in law, Mr. Reeve. A. Yes, sir.

Q. How much money was he going to let you have?

A. Four hundred and fifty dollars.

Q. Four hundred and fifty dollars. What was that $450.00 for?

A. To pay for the expenses for the filing and proving up, to buy the timber.

Q. Was it for all those purposes?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial, and further that it is leading.

A. That was to pay for the timber to the Government, and for the filing.

Q. To pay for the filing and what, the other expenses?

A. That is all.

Q. Well, did he let you have the money then?

By Mr. BICKFORD.—That is objected to as being leading, and further, it is irrelevant and immaterial.

A. No, sir.

Q. How much money did he give you?

By Mr. BICKFORD.—That is objected to as being leading, and further, it is irrelevant and immaterial.

A. He didn't give me any.

(Testimony of Robert Starkie.)

Q. Didn't give me any?

By Mr. BICKFORD.—We object to that upon the ground that it is leading, and further that it is irrelevant and immaterial.

A. No, sir; he didn't give me any.

Q. When did he give your father in law any?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial and assumes a state of facts not testified to by the witness.

A. I don't know.

Q. When—will you swear that he didn't give your father in law any money?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and an attempt upon the part of counsel to cross-examine his own witness.

A. I wouldn't swear, I am not sure. I think not.

Q. Did you not see money in your father in law's possession immediately after leaving Cobban's office?

By Mr. WALSH.—That is also objected to for the reason that it is irrelevant and immaterial, and the cross-examination of the counsel's own witness.

A. He might have had money. He always had money in his pocket.

Q. He always had money?

By Mr. WALSH.—That is also objected to for the reason that it is irrelevant and immaterial, and is cross-examination of the counsel's own witness.

(Testimony of Robert Starkie.)

A. Yes, sir.

Q. Mr. Starkie, look here, I am asking you, and what I want you to testify to on your oath.

A. Well, that is right.

Q. If you didn't see, or know of Reeve having some money and getting some money from Cobban at that time.

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and an attempt upon the part of counsel to cross-examine his own witness.

By Mr. BICKFORD.—The further objection is that the witness has already answered the question twice and has said that he does not know.

By Mr. MAYNARD.—I object to the objection—

By Mr. BICKFORD (Continuing).—That no money was paid by Cobban to Reeve at the time, concerning which he has testified and has said that his father in law always had money, and that he does not remember whether he saw any money in his possession when he left the office of Mr. Cobban or not.

Q. Now, you understand my question, Mr. Starkie.

A. I suppose I answered the question.

By Mr. BICKFORD.—We now move to divide the question propounded to the witness, and to divide it into separate parts. That is to say, whether he saw Reeve with money in one part, and whether he got money from Cobban, in another question, so that the question may be intelligible to the witness.

(Testimony of Robert Starkie.)

By the EXAMINER.—I think that question is intelligible to the witness.

A. I will answer it to the best of my ability. I couldn't say that he got money from Mr. Cobban at all. Isn't that what you wanted me to say?

Q. I am asking you simply for the truth.

By Mr. WALSH.—You have answered one part of the question; he also asked you if you afterwards saw him with some money.

A. I don't remember.

By Mr. BICKFORD.—That is the reason, if your Honor please.

Q. Is that the answer that you want to give?

A. If he would say, "We will go and have a glass of beer," he would pull out a dime, or something like that, and I didn't ask him where he got his money. I never did that.

Q. Mr. Starkie, look here.

By the EXAMINER.—That is all right; if you were sitting over there the witness would be facing you.

Q. (Continuing.) Will you swear that after leaving Cobban at that time and place, after you located, that you didn't see at least ten dollars in money in the hands of Mr. Reeve?

By Mr. WALSH.—We object to that upon the ground that it is leading, and further for the reason that it is irrelevant and immaterial and the question has already been answered.

(Testimony of Robert Starkie.)

A. I wouldn't swear. He might have had $10.00 or $20.00.

Q. I mean ten dollars more than he had before he went up there. A. I wouldn't swear to that.

Q. You wouldn't swear to that?

By Mr. WALSH.—We object to the question for the reason that it is irrelevant and immaterial, and an attempt on the part of counsel to cross-examine his own witness. A. No, because I don't know.

Q. And nothing was said by Reeve with regard to it, will you swear to that?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not prove or tend to prove any issue in this case, and upon the further ground that it is an attempt upon the part of counsel to cross-examine his own witnesss.

A. Yes, sir.

Q. That he said nothing to you about having received any money from Mr. Cobban?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial and does not prove, or tend to prove any issue in this case, and upon the further ground that it is an attempt upon the part of counsel to cross-examine his own witness.

A. Not that I know of. Not that I remember.

Q. Not that you remember?

A. No, if he did; I have forgotten all about it.

Q. How long after leaving the office, under the circum-

(Testimony of Robert Starkie.)

stances that you have now named, was it before you went up into that country?

A. I think we went up two days afterwards.

Q. You went up two days afterwards?

By Mr. WALSH.—We object to that as being irrelevant and immaterial and as leading.

A. I should judge so.

Q. Did you go back to your home before you went off into the country?

By Mr. WALSH.—We object to that for the reason that it is leading, and upon the further ground that it is irrelevant and immaterial to the issues in this case.

A. Yes, sir.

Q. Who went with you?

A. We went home together, Mr. Reeve and I.

Q. But when you were taking him into the Blackfoot country, who went with you? A. Mr. Reeve.

Q. Anybody else? A. No, sir.

Q. Had you ever been up there in your life?

By Mr. BICKFORD.—That is also objected to as being irrelevant and immaterial and an attempt to cross-examine his own witness.

A. Yes, sir.

Q. How many times have you been up there?

A. Well, I had been up there many times.

Q. Up into this Blackfoot country many times?

A. Yes, sir.

Q. For what purpose? A. I worked up there.

(Testimony of Robert Starkie.)

Q. Whereabouts up there did you work?

A. Well, I worked up there on Gold Creek.

Q. Where else did you work?

A. I have been up there hunting, too.

Q. How many times have you been hunting there?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial, and has nothing whatever to do with the issues in this case.

A. I have been hunting up there three or four times.

Q. Three or four times in you lifetime?

A. Yes, sir.

Q. You have been up there in this Blackfoot country three or four times before you went up into that country, and before you took up this timber claim?

By Mr. WALSH.—We object to that as leading, and further upon the ground that it is irrelevant and immaterial.

A. Yes; I had been up the Blackfoot country.

Q. Had you ever been up to this land that you located?

A. Not just onto the land that I had located, I hadn't.

Q. Previous to the time that you went up there this time, I mean.

By Mr. WALSH.—We object to this for the reason that it is irrelevant and immaterial.

A. Went up there—No, sir, I had not.

Q. How long were you on this land?

A. We were up there two days, I think.

(Testimony of Robert Starkie.)

Q. What do you mean by two days, two days from home?

A. No; two days on the land; looking over our claims.

Q. What claims do you mean?

A. That is, Mr. Reeve's and mine together. We were up there together.

Q. That is what you mean by our claims, is it?

A. Yes, sir; finding the locations.

Q. For these claims in this case do you mean?

By Mr. WALSH.—We object to that as being leading.

A. When we went up there.

Q. Yes. What is yours?

A. We went up there—when we went up there, the others didn't go up.

Q. The others didn't go up? A. No, sir.

Q. You say you spent two days with your father in law, John B. Reeve, in looking up "our locations."

A. Yes, sir.

Q. Now, I am asking you what you mean by the word "our"? A. I mean his claim and mine.

Q. At that time you were not locating, and didn't locate or look up lands for your wife and your mother in law, and your brother in law and sister in law? Is that right?

By Mr. BICKFORD.—We object to that for the reason that it is leading.

A. We found out some more good claims, right adjoining on them, and we afterwards claimed it.

(Testimony of Robert Starkie.)

Q. You found it out at that time?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. Yes, sir.

Q. You found those claims at that time, did you?

A. Yes, we found the timber there, and found it was all vacant.

Q. How did you find that out there?

A. Found it out in Missoula when we got back to Misosula with the list of the claims, we found that the rest of the claims around there was vacant.

Q. When did you find out whether yours was vacant or not? A. Before we went up there.

Q. Before you went up there, who told you that?

By Mr. BICKFORD.—We object to the question for the reason that it is irrelevant and immaterial, and has nothing to do with the issues in this case.

By Mr. WALSH.—We also object to the counsel continually repeating the testimony given by the witness as he construes it to be, and asking the witness if that is correct.

Q. Answer my last question, Mr. Starkie.

A. Mr. Cobban told me.

Q. Mr. Cobban told you, did he?

By Mr. WALSH.—We object to that as being leading. And we object now for the reason that it is irrelevant and immaterial and we also object to the statement of counsel that Mr. Cobban told you so.

(Testimony of Robert Starkie.)

Q. Objecting to me simply repeating the answer of the witness?

By Mr. WALSH.—Yes, sir; certainly.

Q. Mr. Cobban told you; whereabouts were you when Mr. Cobban told you that?

By Mr. BICKFORD.—We object now to the witness answering the question for the reason that it is irrelevant and immaterial and has no bearing upon the issues in this case and we also object to counsel reciting what the witness has testified to.

A. In Mr. Cobban's office.

Q. And who were present?

A. Mr. Reeve and myself.

Q. Now, Mr. Starkie, he told you it was vacant. Now, what was vacant?

A. That land in there, that section of land in there that we went to look at, was vacant.

Q. That section of land that you went to look at was vacant? A. Yes, sir.

By Mr. BICKFORD.—We object now to the statement of counsel as to what the witness has testified to.

Q. He gave you the description, then?

By Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. What is that, the description of a section, the corners and the numbers? A. Yes, sir.

(Testimony of Robert Starkie.)

Q. That is, he gave you the description of the land and the corners and the numbers.

By Mr. WALSH.—We object to the question being leading, irrelevant and immaterial, and we also object to the statement by counsel of what the witness has testified to.

A. Yes, sir.

Q. Could you remember the description of the land now that he gave you then?

By Mr. WALSH.—We object to that as being leading.

A. I think it was in section 22, if I remember right.

Q. In what section did you say?

A. In section 22, that is where I located; I think so, I wouldn't be certain about it.

Q. You may state as to whether or not, the description that was given to you by Mr. Cobban, was given to you on paper?

By Mr. WALSH.—We object to that as being leading.

A. No, sir.

Q. It was not, you say.

By Mr. WALSH.—We object to that also as being leading. And we also object to counsel restating what the witness has testified to.

A. Not that I ever saw.

Q. How did you and Reeve go there—up to this country?

By Mr. BICKFORD.—That is also objected to, upon

(Testimony of Robert Starkie.)

the ground that it is irrelevant and immaterial, and does not prove or tend to prove any issue raised by the pleadings in this case; and it makes no difference how they went up there.

A. We took a team and wagon.

Q. Just you two? A. Yes, sir.

Q. How did you go?

By Mr. BICKFORD.—We object to that also, as the witness has already stated how they went.

A. I don't understand you.

Q. I asked you how you went? You went in a horse and wagon. In what direction did you go? Where did you land first, I mean?

By Mr. WALSH.—We object to that as being irrelevant and immaterial, and as having already been testified to by the witness.

Q. Where did you land the first night you got up there? A. We got into Nine Mile Prairie.

Q. Nine Mile Prairie?

A. Yes, if I remember, that is where we stopped the first night we got up there.

Q. Then where did you go the next day?

A. We went up on the creek, where the land was.

Q. Up on the creek where the land was the next day?

A. Yes, sir; we were right on the land the next day.

Q. Did you meet anybody up there?

A. Up in that—

(Testimony of Robert Starkie.)

Q. Up there in connection with this land, I mean.

A. Yes, sir, we did.

Q. Who did you meet up there?

A. Albert Jemison; we met Albert Jemison up there.

Q. You met Albert Jemison up there?

A. Yes, sir.

Q. Was he there at the tavern?

A. He was there at his place; at his home. We camped up there at his place.

Q. You camped at Albert Jemison's home?

By Mr. WALSH.—We object to the counsel for the Government continually repeating the statements of the witness. And asking him if that is correct.

A. Yes, there is where we camped; we got hay for our horses up there at Albert Jemison's home.

Q. What is that?

A. We got hay for our horses there at their place.

Q. Where did you spend the night?

A. If I remember right, we slept in the wagon—no, not in the wagon, we took our bedding along, and I think we slept in the barn.

Q. In whose barn did you sleep?

A. In Jemison's barn.

Q. And then the next morning you went out to look at your land, did you?

By Mr. WALSH.—We object to that upon the ground that it is leading.

(Testimony of Robert Starkie.)

A. Yes, sir, we went to look at the land the next morning.

Q. Did Albert Jemison go with you?

By Mr. BICKFORD.—Object to that also as leading.

A. Yes, sir; he went with us.

Q. He did?

By Mr. WALSH.—We again object to the counsel for the Government restating what the witness has testified to.

A. Yes, sir.

Q. And who were the party that went up on this morning to look at these lands?

A. Mr. Reeve and myself and Albert Jemison.

Q. And Albert Jemison?

By Mr. WALSH.—We object to counsel restating what the witness has testified to.

A. Yes, sir.

Q. Anybody else go up with you? A. No, sir.

Q. Where did you spend that night?

A. I spent that night in some cabins up there in the gulch.

Q. What is that?

A. We stopped that night up in some cabins in the gulch at an old logging camp. There is some old log camps in there where they had been logging.

Q. Who were the parties—who were the parties that spent the night at Albert Jemison's with you?

A. That is all, if I remember right about it.

(Testimony of Robert Starkie.)

Q. What is that?

A. I don't remember now except the parties I have mentioned.

Q. Now, the next day what did you do?

A. Went back into the mountains again.

Q. You went back into the mountains again.

By Mr. WALSH.—We object to counsel repeating the statements that the witness has made.

A. We went back to see Mr. Reeve's claim the next day.

Q. And spent the day.

By Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. And then what did you do the next night?

A. We stayed that day and got back a little afternoon.

Q. A little after noon.

By Mr. WALSH.—We again object to the question as being leading, and also to the counsel repeating what the witness has said.

A. Yes, sir.

Q. And then what did you do after noon?

A. We started back down the river.

Q. Started for home?

By Mr. BICKFORD.—That is objected to as leading.

A. Yes, sir.

Q. So, then, you were up in the mountain a day and a half on this work?

(Testimony of Robert Starkie.)

By Mr. WALSH.—We object to that as leading, and a statement of the testimony of the witness by counsel.

A. I forget; I am not certain just how long we was there.

Q. Well, now, do you know how many different claims Albert Jemison pointed out during this time?

By Mr. BICKFORD.—We object to that upon the ground that it is leading, and as assuming a statement of fact, as proven, which has not been testified to, namely, that Albert Jemison pointed out any claims to them.

A. No, sir.

Q. You say you don't know how many claims he pointed out?

By Mr. BICKFORD.—We object to that upon the ground that it is leading, and as assuming a statement of fact as proven, which has not been testified to—namely, that Albert Jemison pointed out any claims to them.

A. No, sir.

Q. Will you state now to me what you did when you went with Albert Jemison on this trip that you have now testified to?

A. We went up there, and we went across these—I couldn't mention the names of the section that we went across, I forget; we went up there and looked over the land and tried to estimate what we thought the amount of the timber was on the claim. We picked

(Testimony of Robert Starkie.)

out the best claims we could get hold of, and when we got finished with them, why we started for home. That is all we done on that trip.

Q. Then where did you go after that, did you return to Missoula? A. After that we—

Q. After you reached Missoula on your return from the mountains, that you now testify to, where did you go? A. We went to see Mr. Cobban.

Q. We went to see Mr. Cobban.

By Mr. WALSH.—We again object to counsel repeating the statements of the witness.

A. For to get our papers made out. Mr. Catlin made out the papers.

Q. Oh, Mr. Catlin made out the papers.

By Mr. WALSH.—We object to counsel repeating the statements of the witness.

A. Yes, sir.

Q. And then, after Mr. Catlin had made out the papers, what did you do then, Mr. Starkie?

A. We filed on the land.

Q. You filed on the land, did you?

A. Yes, sir.

Q. Who went with you to the land office?

A. I don't remember. I don't remember whether Mr. Catlin went with us or not.

Q. Is that your signature? (Counsel hands witness paper.)

A. Yes, sir, that is my signature.

(Testimony of Robert Starkie.)

Q. And this is Mr. Catlin's handwriting, is it?

A. Yes, I think so.

Q. You say that he filled out the paper?

A. Yes, sir.

Q. Now, then, Robert Starkie of Missoula, Missoula county, State of Montana, desiring to avail himself of the provisions of the act of Congress of June 2, 1878, entitled "An act for the sale of timber lands, etc., for the purposes of description." Now, where did you get that description, to give to Mr. Catlin so that he could write that out?

A. Why you can get the description up there or anywhere if it is surveyed, and Albert Jemison was along with us. He gave us the description.

Q. Albert Jemison gave you the description?

A. Yes, I can get the description in the timber lands as good as any man. I don't have to have a man show me the description of the timber.

Q. What else besides this description that Albert Jemison gave you, did he give you, if anything?

A. He didn't give me anything?

Q. He didn't give you anything? A. No, sir.

Q. On what kind of a paper was this description that Albert Jemison gave you?

By Mr. BICKFORD.—We object to the question for the reason that the witness has not testified that Albert Jemison gave him any paper.

By Mr. WALSH.—And we object also to this contin-

(Testimony of Robert Starkie.)

ually asking the witness whether he has not said so and so.

By the EXAMINER.—The Court will pass upon those questions.

A. On a tablet, on a piece of writing paper.

Q. On a piece of writing paper? A. Yes, sir.

Q. Now, sir, on this piece of writing paper, was there anything else written on it except this description that is down in that statement?

A. No, sir; not that I remember. Come to think about it, I don't know but what I wrote it myself—come to think about it.

Q. Well, now, let us have it.

A. I know that he couldn't write very good.

Q. Oh, Albert Jemison couldn't write very good.

A. No, sir, couldn't write as good as me, and I can't write very good.

Q. Well, what do you mean by that?

A. If I remember, he just says, "Make it out.'e'

Q. Where was this?

A. That was down in his house, and he got a piece of paper, and he says, you write it out yourself, and then I wrote it, if I remember right. I wrote out the descriptions myself.

Q. In his house? A. Yes, sir.

Q. Was that before or after you had gone to the location?

A. That was after we came back and had been up there.

(Testimony of Robert Starkie.)

Q. That is, you wrote them down. Where did you get them from?

A. I got them up in the mountains. He wrote them down when we was up there, and then I came back to his house. Let me see, no, I didn't, I believe that is wrong. No, sir, we didn't go with Albert to his house at all. We had some paper along and I wrote it right there where we was camped. That is right now, when I come to think about it because we didn't go back to Jemison's house at all. I was mistaken. I was thinking about another time, when my wife was with me.

Q. Oh, you are thinking about a time when your wife was with you?

A. That is, when I wrote them out at the house.

Q. Well, where did you get these figures from?

A. I got them when I was out in the timber. I picked out the forties that I wanted. Got the description there. You can get the description of the timber. It is on every section corner.

Q. Well, then as I understand you, Albert Jemison didn't have anything to do with it?

A. Albert Jemison was along with us.

Q. Except that he was along, he didn't have anything to do with that description. You picked it out yourself.

A. Well, we were there together, and he assisted, you know, in getting them correct so that we wouldn't make any mistake. Some forties didn't have any timber on and were not so good and we didn't want them.

(Testimony of Robert Starkie.)

Q. But what I am now asking you about is, did you fix up these descriptions, or did he write them out himself and give them to you?

By Mr. WALSH.—We object to that for the reason that it is leading, and the question has already been answered by the witness, and it is a needless repetition, and only tends to prolong the examination of the witness.

A. I wrote them out myself.

Q. Who was there at the time?

A. Albert Jemison was along with us, and we wrote them all right there. We wanted to get forties that was good and that would make up a whole section, and when we got four good forties, we could fix it up. If we would come to a forty that wasn't very good, we would just mark that out. We didn't want that.

Q. And then when you got through you made up this description? A. Yes, sir.

Q. That was when Albert was along, was it?

A. Yes, sir.

Q. And then you same down to Missoula, is that it?

By Mr. WALSH.—We object to that for the reason that it is leading, and further upon the ground that it is irrelevant and immaterial. We also object to counsel repeating the statements made by the witness.

A. Yes, sir, that is right.

At this point a recess was taken until two o'clock of the same day.

HENRY N. BLAKE,
Examiner in Chancery.

Friday, March 21st, 1902, 2 P. M.

The witness, ROBERT STARKIE, being on the stand, direct examination was resumed by Mr. Maynard:

Q. Since the noon recess how many people have you talked to about your testimony?

By Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Not any.

Q. What did you say?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Not anybody.

Q. Haven't you talked with your father in law Reeve?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. No, sir.

Q. Not a word said about it?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. No, sir.

Q. Did you talk to Mr. Walsh again?

A. No, sir.

Q. Mr. Bickford? A. No, sir.

Q. Not a word? A. Not a word.

Q. Who did your business at the land office?

Mr. BICKFORD.—We object to that for the reason

(Testimony of Robert Starkie.)

that he has already testified as to that, further because the time is not fixed when the business is inquired about.

Q. When you went to file?

Mr. BICKFORD.—We object to that for the reason that he has already testified as to that.

A. Mr. Catlin.

Q. What did he do?

Mr. BICKFORD.—We object to that for the reason that the papers themselves are the best evidence of the facts sought to be adduced.

A. He made application for me, took the papers down for me.

Q. Did he do the same with Mr. Reeve?

Mr. BICKFORD.—We object to that as leading.

Q. Was he along?

Mr. BICKFORD.—We object to that as leading.

A. Don't remember.

Q. Don't remember whether your father in law was along with you when you filed or not?

Mr. BICKFORD.—We obejct to that as leading.

A. No, sir, I do not remember.

Q. Can you remember what you did there; have you any present recollection of what you did in the land office at that time? A. No, sir, I have not.

Q. Do you remember of returning again to the land office for the purpose of proving up?

A. Yes, sir.

(Testimony of Robert Starkie.)

Q. How much time elapsed; how much time passed between the two dates, if you remember?

A. If I remember there was about ten or eleven weeks; I don't just remember—ten weeks, I think.

Q. What had you been doing in the meantime?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I had been getting out cordwood, hauling cordwood to town.

Q. Just the same?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Just the same.

Q. Didn't you go up to the mountains in the meantime?

Mr. BICKFORD.—We object to that as leading.

A. Yes, sir, I did.

Q. How many times?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I think once—that is, you mean onto the land, on the timber claim; is that what you mean?

Q. I want to find out first whether you were ever up there again?

A. Yes, sir, I was up there afterwards.

Q. I mean after you had filed?

A. For the first time you mean?

Q. Yes, sir. A. Yes, sir.

(Testimony of Robert Starkie.)

Q. After you returned to Missoula for the purpose of filing, then I ask you if you returned again?

A. Yes, sir.

Q. How long after?

A. Oh, about two weeks I think, about two weeks afterwards.

Q. Who did you go with this time?

A. Well, I was once with my wife.

Q. That is, Mary A. Starkie? A. Yes, sir.

Q. Who else? A. And Mr. Reeve.

Q. Your father in law? A. Yes, sir.

Q. He went again?

A. Yes, sir, he was up there again.

Q. And who else? A. Mrs. Reeve.

Q. Your mother in law? A. Yes, sir.

Q. Is that Reeves or Reeve?

A. Reeve.

Q. Who else? A. Mr. and Mrs. Ehle.

Q. What are their first names?

A. Albert E. Ehle and Nellie J. Ehle.

Q. Have you seen Mr. Cobban in the meantime?

Mr. BICKFORD.—That is objected to as leading and as irrelevant.

A. I saw Mr. Cobban quite often when I would be in Missoula.

Q. I mean in regard to this business?

Mr. BICKFORD.—We object to that as leading and irrelevant.

A. Let me see—I don't remember.

(Testimony of Robert Starkie.)

Q. What are you trying to remember, I am waiting for your answer?

The EXAMINER.—The witness has answered he don't remember.

Q. State if you know why the four that you now have named did not go up with you and your father in law when you first went?

Mr. BICKFORD.—We object to that as immaterial and irrelevant; calling for a conclusion of the witness.

A. I don't know any reason why they did not go; I did not ask them to go and I did not say anything about going.

Q. Was there anything said previous to your going up there the first time with your father in law about these four going?

Mr. BICKFORD.—We object to that as hearsay, leading, irrelevant and immaterial.

A. No, sir, not that I know of.

Q. Do you know how it happened that something was said about their going up after you returned?

Mr. BICKFORD.—We object to that as hearsay, leading, irrelevant and immaterial.

A. Well, I knew my wife could take up a timber claim and that was the reason she went.

Q. Well, you knew that before, didn't you?

A. No, sir.

Q. When did you first find that out?

A. When I was up there I think I found it out.

(Testimony of Robert Starkie.)

Q. Who told you?

A. I don't remember whether it was Jameson or who it was, saying that any woman could take up a claim over twenty-one years of age had a right to.

Q. Who was there up there that you saw besides Albert Jameson?

A. Well, there was Jameson's brother.

Q. What was his name?

A. I don't remember what his name was.

Q. State all the persons that you saw up there that you can now remember?

Mr. BICKFORD.—We object to that as irrelevant and immaterial, not responsive to any issue in the case.

A. Well, there was Albert Jameson's mother there.

Q. Did you have a talk with her on this subject?

Mr. WALSH.—We object to that as leading.

A. No, sir.

Q. Did you with Albert Jameson's brother?

Mr. WALSH.—We object to that as leading.

A. No, sir.

Q. Did you with anybody except Albert?

Mr. WALSH.—We object to this as leading.

A. No, sir.

Q. So from what you learned while you were up in the mountains you went down to your home and took your mother in law and wife up there and your sister in law and your brother?

Mr. WALSH.—We object to this as leading and as

(Testimony of Robert Starkie.)

being simply a statement of the counsel, as to what he believes the witness testified to, as being his construction of what he has testified to.

Q. Is that or is that not a fact?

Mr. WALSH.—We object to this as leading, as being simply a statement of the counsel as to what he believes the witness testified to, as being his construction of what he has testified to.

A. Yes, sir.

Q. How did you go this time?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. The second time—with a team and wagon.

Q. Six of you in one team? A. Yes, sir.

Q. How long were you gone from home?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I don't know whether it was two or three days.

Q. I mean going from your home up into the mountains and back again?

A. Well, I say I don't remember whether we were gone two or three days.

Q. Well, it would take you a day to go up there would it not?

A. Yes, sir—we did not go up there the first day.

Q. Where did you go?

A. We stopped where my brother in law was building.

(Testimony of Robert Starkie.)

Q. The first night?

A. Yes, sir, it was about two or three days from the time we left his place until the time we got back to his place.

Q. Who did you see this time up in the mountains?

A. I don't remember; I saw Albert Jameson.

Q. You say Albert Jameson?

Mr. BICKFORD.—We object to this as a repetition by counsel of what the witness has testified to.

Q. Who else besides Albert Jameson did you see that you can now remember?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. We stopped there at his father's house; we had to stay inside of the house with the children; we could not very well camp outdoors with the children, cool nights.

Q. Did you go up with your wife when she located?

Mr. BICKFORD.—We object to that as leading.

A. Yes, sir.

Q. Who was with her besides yourself?

A. Mr. Reeve.

Q. Who else? A. And Albert Jameson.

Q. Who else?

A. Well, I think that is all that went up on the timber claim.

Q. How many claims were located that day?

(Testimony of Robert Starkie.)

A. Four, not just that day; I think there was two that day and two the next.

Q. Did you go with the others? A. Yes, sir.

Q. Your brother in law and sister in law?

Mr. BICKFORD.—We object to that as leading.

A. Yes, sir.

Q. Who was with you?

A. Mr. Reeve and Albert Jameson.

Q. Then did you return the same way that you went up into the mountains?

Mr. BICKFORD.—We object to that as leading.

A. Yes, sir.

Q. Did you go to Missoula first before going home?

Mr. BICKFORD.—We object to that as leading.

A. We had to go through Missoula to get home.

Q. Where did you go?

A. After getting back from locating?

Q. Yes. A. We went home.

Q. Did you stop anywhere, did you file before you went home?

Mr. BICKFORD.—We object to that as leading.

A. I don't know; if I remember it was late at night when we came through town and we went home.

Q. How far was your home from the town?

A. Eight miles.

Q. Is that your recollection? A. Yes, sir.

(Testimony of Robert Starkie.)

Q. That you went home? A. I believe so.

Q. Have you any recollection as to when the four went down and filed, did file in fact?

A. No, I have not.

Q. Were you with them?

A. I don't remember whether I was or not.

Q. You don't remember whether you were with your wife when she went to file or not?

Mr. BICKFORD.—We object to that as leading.

A. If I remember right her and her sister went together—and Mrs. Reeve and Mr. Reeve, the four of them; I don't remember whether I was there or not, I could not say.

Q. Have you any recollection of going to Cobban's office with them?

Mr. BICKFORD.—We object to that as leading.

A. No, sir.

Q. No, for what purpose Mr. Starkie, did you take up this claim? A. I took it up for my own benefit.

Q. For your own benefit? A. Yes, sir.

Q. What do you mean by that?

A. I mean I took it up because I was entitled to it and because I wanted it.

Q. What were you going to do with it?

A. I was going to sell it if I could make anything out of it.

Q. Have you a recollection as to what you did the

(Testimony of Robert Starkie.)

day that you proved up on your claim? A. Yes, sir.

Q. What did you do?

A. You mean after I proved up?

Q. No, on the day that you proved up, tell me all that happened on that day.

A. Oh, I came down town and we got the money from Mr. Cobban and went and proved up, to pay for the land.

Q. Who do you mean by we?

A. We, I mean my wife.

Q. You and your wife? A. Yes, sir.

Q. How much money did you get from Mr. Cobban?

A. I forget just what I did get; I think it was between eight and nine hundred dollars to pay for the two claims.

Q. Was anybody else with you besides your wife?

Mr. BICKFORD.—We object to this as leading.

A. Yes, sir.

Q. Who?

A. Well, Mr. Reeve was there, we all proved up on one day.

Q. All six of you?

A. No, I will take that back, Mrs. Ehle did not prove up on hers at all.

Q. At any time?

A. No, sir, not on that claim she did not.

(Testimony of Robert Starkie.)

Q. Well, now, I am asking you just how many were present and proved up on that day?

A. There was five proved up, if I remember right.

Q. Name the five now, so that we will know.

A. Well, there is Mary A. Starkie.

Q. That is your wife?

A. That is my wife—myself, Mr. Reeve and Mrs. Reeve and Mr. Ehle.

Q. How was it, if you know, that Mrs. Ehle did not prove up that day?

A. The timber that she had filed on we found out was not as good, that we were mistaken as to the number, the amount of timber on it, that we thought there was first.

Q. Then you and your wife proved up on that day?

A. Yes, sir.

Q. And the money was paid into the land office?

A. Yes, sir.

Q. And then on that same day you and your wife conveyed to Mr. Cobban, didn't you?

Mr. BICKFORD.—We object to this as a statement by counsel and not in the testimony given by the witness, and because it is leading; we object to the two preceding questions so called, as being a mere statement by counsel as to what the witness has testified to.

A. That same day we went up there after we proved up and we asked Mr. Cobban if he would take the timber from us.

(Testimony of Robert Starkie.)

Q. What did he say?

Mr. BICKFORD.—We object to that as hearsay.

A. He said he would.

Q. Well, did you sell to him? A. Yes, sir.

Q. Who were present when you and your wife conveyed your land that you had that day proved up on to Mr. Cobban?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Well, Mr. Pound, I think, was present.

Q. And Cobban and you too, nobody else?

Mr. WALSH.—We object to that and move to strike it out as being a statement of counsel.

A. Mr. Reeve was there.

Q. Mr. and Mrs. Reeve? A. Yes, sir.

Q. Your sister in law and your brother in law?

Mr. BICKFORD.—We object to that as leading and as being a statement of counsel.

A. Yes, sir.

Q. All in the room at the same time?

Mr. BICKFORD.—We object to that as leading and as being a statement of counsel.

A. I don't remember whether they were all there or not at the same time.

Q. Did you receive any money on that day from Mr. Cobban when you conveyed your land to him?

(Testimony of Robert Starkie.)

Mr. BICKFORD.—We object to that as leading.

A. I received the money from Mr. Pound.

Q. How much?

A. Well, I think after the money that we got—

Q. I am asking you how much money you received that day from Mr. Cobban through Mr. Pound?

Mr. WALSH.—Go on and answer as you were going to when you were interrupted.

(Answer continued.) The money we got from Mr. Cobban to pay for the land, the money we borrowed, about two hundred I think it was, two hundred and forty-five dollars, if I remember right.

Q. Two hundred and forty-five dollars?

A. Yes, sir.

Q. That you and your wife received?

Mr. WALSH.—We object to the statement of counsel as not brought out by the testimony of the witness, and being so far as it is anything a mere statement by counsel of what he thinks the witness has testified to.

A. Yes, sir.

Q. How was that money paid?

A. It was paid in cash.

Q. In cash? A. Yes, sir.

Q. Did you see the money paid to the others?

Mr. WALSH.—We object to that as leading.

A. No, sir.

(Testimony of Robert Starkie.)

Q. You did not? A. No, sir.

Q. Who paid the money into the land office that paid for your land and your wife's land, that same morning, that same day? A. Mr. Catlin, I believe.

Q. Mr. Catlin paid it in?

Mr. WALSH.—We move to strike out this question as being a statement of counsel and as a repetition of what the witness has testified to.

A. Yes, sir.

Q. How much, Mr. Starkie, did it cost you to make your round trip from your home to the mountains and back?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. We took our grub from home, camped out, had our own team and wagon, did not pay out anything.

Q. Did you pay out any money in cash from the beginning of this matter until the end that you can remember?

Mr. BICKFORD.—We object to that as leading.

A. I don't remember.

Q. You don't remember that?

Mr. BICKFORD.—We object to that as a statement of counsel.

A. No, sir.

Q. You don't remember whether you paid out any money at all or not?

(Testimony of Robert Starkie.)

Mr. BICKFORD.—We object to that as a statement of counsel and as leading.

A. No, sir, I do not remember.

Q. How does it happen, Mr. Starkie, that you made up your mind, you and your wife, to convey the land that you had entered, sell it to Mr. Cobban on the same day that you proved up, and the money was paid into the land office for you by Mr. Catlin?

A. Well, we did not have the money, we borrowed the money from Mr. Cobban, we just turned around and sold him the land right there.

Q. Well, you did not expect when Catlin paid the money into the land office in the morning for you to sell to Mr. Cobban that day, did you?

Mr. BICKFORD.—We object to that as immaterial and irrelevant, as calling for a conclusion from the witness and as leading.

A. Well, we expected to sell it to somebody, whoever we could sell it to, the timber was no good to us.

Q. What?

A. I say we expected to sell it to somebody before we filed on it; when we filed on it first we expected to sell it; we expected to sell it all the time.

Q. Expected to sell it all the time?

A. Yes, sir, from the time we filed on it.

Q. And you did not know you were going to sell it to Mr. Cobban?

(Testimony of Robert Starkie.)

A. There was no bargain made or anything said about it.

Q. You did not expect to sell it to him then?

Mr. BICKFORD.—We object to this as immaterial, irrelevant and leading.

A. We heard that he was buying other pieces of timber and did not see why he would not buy ours, if we had a good claim.

Q. Who did you hear, that he was buying other places, timber?

Mr. BICKFORD.—We object to that as immaterial and irrelevant and as hearsay.

A. I do not remember who was telling me, some parties, I think, that had already sold a claim to Cobban.

Q. But you can't remember their names?

A. No, not for certain I cannot.

Q. What?

A. Not now, I cannot just recall who it was. I know several people around there that have taken up claims and sold them to Cobban.

Q. To Cobban? A. Yes, sir.

Q. Can you remember their names?

A. Yes, sir.

Q. Who were they?

A. Frank B. Arey had sold timber to Cobban, and George Dildine there in Missoula.

Q. Well, name some others, please, if you can.

(Testimony of Robert Starkie.)

A. I can't think of anybody now.

Q. You have named two, you say, that you knew had taken up claims and sold to Cobban, how did you know that?

A. They told me about it, I heard from them.

Q. You heard from them?

A. Yes.

Q. When was that?

A. That was sometime that summer; I cannot just tell when it was.

Q. Was that before or after you filed?

A. Well, Mr. Arey, before I filed, he told me that he had filed.

Mr. BICKFORD.—We object to the conversation with Arey or any conversation with Arey.

(Answer continued.) He told me he had filed in some land up in there and for to go up there, there was some claims vacant up in that country.

Q. What else did he say?

Mr. BICKFORD.—We object to the conversation with Arey or any conversation with Arey.

A. He said we would have no trouble in selling it, there was lots of people around there buying timber land at that time.

Q. Had you already found out from him how much he had got from Cobban before you saw him?

Mr. BICKFORD.—We object to that as immaterial and leading.

(Testimony of Robert Starkie.)

A. There was no bargain made or anything said about it.

Q. You did not expect to sell it to him then?

Mr. BICKFORD.—We object to this as immaterial, irrelevant and leading.

A. We heard that he was buying other pieces of timber and did not see why he would not buy ours, if we had a good claim.

Q. Who did you hear, that he was buying other places, timber?

Mr. BICKFORD.—We object to that as immaterial and irrelevant and as hearsay.

A. I do not remember who was telling me, some parties, I think, that had already sold a claim to Cobban.

Q. But you can't remember their names?

A. No, not for certain I cannot.

Q. What?

A. Not now, I cannot just recall who it was. I know several people around there that have taken up claims and sold them to Cobban.

Q. To Cobban? A. Yes, sir.

Q. Can you remember their names?

A. Yes, sir.

Q. Who were they?

A. Frank B. Arey had sold timber to Cobban, and George Dildine there in Missoula.

Q. Well, name some others, please, if you can.

(Testimony of Robert Starkie.)

A. I can't think of anybody now.

Q. You have named two, you say, that you knew had taken up claims and sold to Cobban, how did you know that?

A. They told me about it, I heard from them.

Q. You heard from them?

A. Yes.

Q. When was that?

A. That was sometime that summer; I cannot just tell when it was.

Q. Was that before or after you filed?

A. Well, Mr. Arey, before I filed, he told me that he had filed.

Mr. BICKFORD.—We object to the conversation with Arey or any conversation with Arey.

(Answer continued.) He told me he had filed in some land up in there and for to go up there, there was some claims vacant up in that country.

Q. What else did he say?

Mr. BICKFORD.—We object to the conversation with Arey or any conversation with Arey.

A. He said we would have no trouble in selling it, there was lots of people around there buying timber land at that time.

Q. Had you already found out from him how much he had got from Cobban before you saw him?

Mr. BICKFORD.—We object to that as immaterial and leading.

(Testimony of Robert Starkie.)

A. No, sir.

Q. Do you remember where you went after you left the land office, when you gave your testimony and the money was paid for the purchase of the land by Mr. Catlin?

A. We went to Mr. Cobban's office afterwards.

Q. Who did you go with?

Mr. BICKFORD.—We object to that for the reason that the witness has already testified as to the facts sought to be adduced at this time.

A. With my wife.

Q. And who else?

A. I don't remember now whether there was anybody else with me or not.

Q. Did Mr. Cobban go with you?

Mr. BICKFORD.—We object to that as leading.

A. No, sir.

Q. He was up there when you got there?

Mr. BICKFORD.—We object to that as leading.

A. Yes, sir; I think so.

Q. How much time did you spend in Mr. Cobban's office when you went from the land office to Cobban's office?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Quite a while, about an hour and a half, I should think.

Q. Who drew the deed?

(Testimony of Robert Starkie.)

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Mr. Pound.

Q. Now, you say that you went from the land office to Mr. Cobban's office, will you please tell me if anyone told you to go there?

Mr. BICKFORD.—We object to that as leading.

A. No, sir.

Q. Nobody told you that?

Mr. BICKFORD.—We object to that as leading and as a repetition by counsel of the testimony of the witness.

A. No, sir.

Q. You went directly from the land office to Mr. Cobban's office with your wife and there sold in Cobban's office?

Mr. BICKFORD.—We object to this as calling for no fact from the witness and as being leading, and as a repetition of the testimony of the witness by the counsel as he thinks it was given.

Q. You had no conversation with Mr. Cobban or Mr. Catlin about your coming there after you had filed?

Mr. BICKFORD.—We object to this as calling for no fact from the witness, and as being leading, and as a repetition of the testimony of the witness by the counsel as he thinks it was given.

A. No, sir.

A. Do I understand you right, did you say I had had

(Testimony of Robert Starkie.)

no conversation in regard to selling the land to him until I went up there after I had proved up?

Q. Yes. A. No, sir, I did not.

Q. Nothing said about that? A. No, sir.

Q. Well, now, how do you wish to be understood in regard to that matter?

A. Well, that is just what—didn't I answer your question?

Q. Let me understand you.

Mr. BICKFORD.—There seems to be no room for misunderstanding.

Q. The first time in your life that you had any talk with Mr. Cobban then in regard to selling this land was after you had proved up and when you went to his office on the same day you had proved up?

Mr. BICKFORD.—We object to that as leading and as being a repetition by counsel of the testimony given by the witness.

Q. What is your answer to that question?

Mr. BICKFORD.—We object to that as leading and as being a repetition by counsel of the testimony given by the witness.

A. Certainly that was the first time, I went to him and asked him if he would buy it, what he would give me for it, I might sell it to him.

Q. And when his agent, Mr. Catlin, paid the purchase price of the land in the office that same day for you, wasn't anything said about your selling the land?

(Testimony of Robert Starkie.)

Mr. BICKFORD.—We object now to this question upon the ground that the witness has not testified that Mr. Catlin was Mr. Cobban's agent, and it therefore assumes a fact as testified to by the witness which has not been testified to, and because the question is leading and because it is a repetition of what the witness has testified to.

A. No, sir.

Q. Not a thing? A. Not a thing.

Q. As a matter of fact, you did not expect to sell that land that day at all?

Mr. BICKFORD.—We object to this as leading, immaterial and irrelevant, what his expectation was, the sole question being whether he had made an agreement to sell it.

A. I expected to sell it as quick as I could to some one.

Q. You did not know that Cobban was buying these lands before you?

Mr. BICKFORD.—We object to this as leading.

A. I know he had been buying lands, timber lands.

Q. You knew that he had been buying timber land?

Mr. BICKFORD.—We object to this as leading and as a repetition of the testimony of the witness by counsel and therefore calling for no new facts.

A. Yes, sir.

Q. How long had you known it?

(Testimony of Robert Starkie.)

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I don't know, I cannot say how long.

Q. Cannot say how long? A. No, sir.

Q. And you cannot say from whom you acquired this knowledge?

Mr. BICKFORD.—We object to that as leading, as immaterial, irrelevant and hearsay.

A. No, sir.

Q. Well, now, can you give me the reasons why you went directly from the land office to Cobban's office?

A. I went there to sell—my reason.

Q. Neither Mr. Cobban nor Mr. Catlin, nor Mr. Pound nor your father in law nor any one else had ever said anything to you about the fact that you should go there to sell?

Mr. BICKFORD.—We object to that as leading and as repetition of what has already been testified to.

A. No, sir; lots of places to sell timber land at that time.

Q. How many places were there?

A. I cannot say.

Q: You say there were lots of them to sell timber land, just name some of them.

A. Well, there was Kendall, he was buying timber land, Billy Kendall was buying timber land.

Q Where was he?

A. He was living up—he had a sawmill, he was living there in Missoula.

(Testimony of Robert Starkie.)

Q. He was living there in Missoula? A. Yes, sir.

Q. Did you know him?

A. William J. Kendall, I think that is his initial, J., they call him Billy Kendall.

Q. Where was his place of business?

A. Well, he had two or three sawmills.

Q. Where were these sawmills?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. He had one mill at Clinton, he had another mill up the Bitterroot, had a mill at Bonita.

Q. Where did he live in Missoula?

A. On the south side.

Q. Whereabouts on the south side?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I could not tell you the name of the street, I know where the house is.

Q. You know where the house is?

Mr. BICKFORD.—We object to that as immaterial and irrelevant and as a repetition by counsel of the testimony of the witness.

A. Yes, sir.

Q. You knew at the time?

Mr. BICKFORD.—We object to that as immaterial and irrelevant and as a repetition by counsel of the testimony of the witness, and we move to strike it out for that reason.

(Testimony of Robert Starkie.)

A. Yes, sir.

Q. You say there were lots that had been buying, you named one, now name another?

A. McKeen & Erickson.

Q. Where was their place of business?

A. They were up on the Lolo.

Q. Where did you say their place of business was?

A. On the Lolo.

Q. Where is that?

A. Twelve miles from Missoula.

Q. Twelve miles from Missoula?

Mr. BICKFORD.—We object to the repetition by counsel of the testimony of the witness.

Q. There is two, give me another.

A. There is the Blackfoot Milling Company.

Q. That is three, can you name another?

A. I know them, but I cannot just think of them now.

Q. Were there others whose names you cannot think of now?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Yes, sir.

Q. These parties were all buying timber?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. Yes sir; if a man has a good timber claim, if you

(Testimony of Robert Starkie.)

have a good timber claim, it is no trouble to dispose of it, cutting the timber is the worst part of it.

Q. Did you have a good timber claim?

A. Yes, sir, pretty good.

Q. And did your wife have a good one?

A. Yes, sir, pretty fair, the best of the timber claims was all gone.

Q. At the time you went up there?

A. Yes sir; I had to go way back on the mountain, the timber down handy to the river was all gone.

Q. Where was yours?

A. Up on the mountain.

Q. Now, Mr. Starkie, have you told us the truth when you said that you entered this claim, you and your wife, with the purpose of getting the timber for the purpose of selling it and making some money, will you please tell me with that purpose, if you say that was the purpose, when you knew that these different parties were ready to buy this timber claim, why was it that you went straight away from the United States Land Office after you had proved up and after the money had been in as you have testified, and sold at once on that same day to Mr. Cobban?

Mr. BICKFORD.—We object to this question because counsel has no right to assume that the witness has not told the truth in making the statement he did, and no right to make any insinuation in the course of his question against the integrity of the witness that he is not telling the truth; the question is manifestly improper.

(Testimony of Robert Starkie.)

A. I supposed I had a perfect right to sell to who I pleased after I had proved upon it.

Q. Well, if you supposed that you did have in truth and in fact a perfect right to sell to whom you pleased, why did you take the first offer that you got? Why didn't you go to these other people and ask them as to whether or not they would pay more for it?

A. We did.

Q. Who was that?

A. I asked—I forget the man's name, but they were buying timber up there where we located, where that timber was, they said they had not bought any up there, Mr. Cobban had already bought timber there and we could get more out of it from him then from anybody else, there could be a road built to the timber to get it out it could be drove down the creek, Belmont Creek.

Q. Who was this that told you that?

A. Totman, I think his name is.

Q. Who is Mr. Totman?

A. He was the head man for the Blackfoot Milling Company at that time.

Q. When was that?

A. That was about the time we proved up on the land, just a few days before that, somewhere along just about that time.

Q. A few days before you proved up on the land you say, Mr. Totman? A. Yes, sir.

Q. You saw Mr Totman? A. Yes, sir.

(Testimony of Robert Starkie.)

Q. What was his first name?

A. I don't know, I forget.

Q. Have you any acquaintance with him?

A. No, sir, I know him when I see him, I did at that time.

Q. You know him by sight? A. Yes, sir.

Q. Where was he when you had this conversation with him? A. There at Bonner.

Q. Who was with you?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. I don't remember now who it was with me, I met him one day and asked him about it.

Q. Where is Mr. Totman now?

A. I don't know.

Q. You say you don't remember who you were with?

Mr. BICKFORD.—We object to that as irrelevant and immaterial.

A. No, sir.

Q. Do you remember any of the facts and circumstances connected with it?

A. I just remember what I have told you.

Q. What were you doing in Bonner?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Go over to Bonner quite often, I used to.

Q. For what purpose?

(Testimony of Robert Starkie.)

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Up there fishing, once and a while, my brother in law lived up there.

Q. Can you remember any of the facts and circumstances that transpired on the day that you say you had this conversation with Cobban?

Mr. WALSH.—We object to that for the reason that the witness has already answered the question.

A. I don't remember.

Q. You don't remember where you were going?

Mr. WALSH.—He has already answered that question.

A. I was on my way from Bonner.

Q. On your way from Bonner, what do you mean by that?

A. I was going through Bonner.

Q. On horseback or walking?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. In a wagon.

Q. Where were you going?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. I was going up the Blackfoot.

Q. Were you in your wagon when you spoke to this man?

(Testimony of Robert Starkie.)

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. I think so.

Q. You think so.

Mr. WALSH.—Now, we object to the repetition by counsel of the answer given by the witness.

A. Yes, sir.

Q. Now, then, can you name any fact or any circumstance connected this meeting other than what you have named?

Mr. WALSH.—We object to that because the witness has already answered the question three times in succession.

A. Yes, sir.

Q. Where was this man you spoke to?

Mr. WALSH.—We object to that because it is irrelevant and immaterial and because it has already been answered by the witness.

A. He was right there on the sidewalk in Bonner.

Q. You think you were going along in your wagon?

A. Yes, sir, I was in a wagon.

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Yes, sir, and he was alongside.

Q. He was alongside?

Mr. WALSH.—We object to the counsel repeating the answer of the witness, and we object to the question

(Testimony of Robert Starkie.)

now propounded for the reason that the same question has been answered and because it is irrelevant and immaterial.

Q. Now, just what did you say to him?

Mr. WALSH.—We object to that as irrelevant and immaterial and hearsay.

A. I asked him was they buying timber up there in that neighborhood?

Q. What did he say?

Mr. WALSH.—We object to that as immaterial, irrelevant and as hearsay.

A. He said they had bought lots of timber up there, or right close to where my timber was.

Q. Where did you tell him your timber lay?

Mr. WALSH.—We object to that as irrelevant, immaterial and as hearsay,

A. On the Belmont.

Q. On the Belmont? A. On the Belmont.

Q. What is the Belmont?

Mr. WALSH.—We object to that for the reason that it is immaterial, irrelevant and hearsay; we object to the repetition of the answer by counsel.

A. There is a creek called the Belmont creek, a mountain called the Belmont mountain, a big mountain they call the Belmont.

Q. Was your land located near the Belmont mountain, or Belmont creek?

A. It was on the Belmont mountain.

(Testimony of Robert Starkie.)

Q. You told him that? A. Yes, sir.

Q. What did he say then?

Mr. WALSH.—We object to that as leading and as being irrelevant, immaterial and hearsay,

A. He said they did not need timber right then, he would not buy them, I had better see Mr. Cobban, better sell it to Mr. Cobban.

Q. That was the first information that you had received from anybody that Mr. Cobban was buying?

Mr. BICKFORD.—We object to that as leading and as presupposing a statement of facts which has not been made by the witness.

A. I heard before that Mr. Cobban was buying timber land.

Q. Well, have you stated all the conversation you had with this man?

A. Yes, sir, as near as I can remember.

Q. Now, who else did you talk with in regard to the matter?

A. I don't know that I talked to anybody.

Q. He was the only man?

A. Yes, sir, I think so.

Q. About buying your timber?

A. I don't remember whether I talked to anybody or not.

Q. Can you remember now? A. No, sir.

Q. Now, as I understand you, that because of this conversation that you had with this man at the time

(Testimony of Robert Starkie.)

and place you had located, you sold to Cobban at once after you proved up and made no effort to ascertain whether you could sell at a better price to any of the men you have named to me?

Mr. WALSH.—We object to that because it is a statement by counsel as to what he supposes the witness has testified to, his construction as to what he believes the witness has testified to, and asks him if it is not true, and the question is leading and unfair.

A. No, I did not try to sell to anybody else.

Q. Mr. Starkie, did you know you were indicted by the federal grand jury for perjury in this case?

A. Before this, during this last summer, do you mean?

Q. Yes, sir, last June.

A. I know that I was here.

Q. You were arrested and arraigned here?

A. Yes, sir, I gave bonds, I appeared here.

Q. That matter is still pending, isn't it?

A. Yes, sir.

Q. Mr. Walsh here is one of your attorneys?

A. I don't know.

Q. You don't know whether he is or not?

A. I could not say.

Q. Have you employed an attorney at all?

Q. Who?

A. The whole crowd of us together.

Q. Who?

A. Why it is Mr. Marshall & Stiff.

(Testimony of Robert Starkie.)

Cross-examination.

(By Mr. BICKFORD.)

Q. I understand you to say you were born in England? A. Yes, sir.

Q. You had declared your intention to become a citizen of the United States before making entry of this land, had you?

A. Yes, sir. I showed my papers in Missoula to Mr. Hershey, I think he has got a copy.

Q. You don't know whether Mr. Walsh is associated with Messrs. Marshall & Stiff as your counsel or not?

A. He may be for anything I know.

Q. So far as that is concerned you are represented by counsel in this indictment? A. Yes, sir.

Q. You know that pleas in abatement were filed to the indictments, didn't you, on account of improper acts by counsel for the Government in this case?

A. Yes, sir.

Q. Because he was not properly entered as an attorney of record in the court in which the indictments were found? A. Yes, sir, I certainly do.

Q. You say you had filed your intention to become a citizen of the United States, were you a full citizen?

A. I was not at that time, but I am now, since then.

Q. These papers that you got to become a citizen of the United States, or declared your intention to become a citizen were taken out in the court of common pleas in Allegheny county, Pennsylvania?

A. Yes, sir.

(Testimony of Robert Starkie.)

Q. That was before you came to the State of Montana?

A. Yes, sir, that was just before I left.

Q. Now, at the time you made your timber and stone entry in the United States land office in Missoula, you believed yourself to be possessed of the timber and stone right under the laws of the United States?

A. Yes, sir.

Q. Was it in pursuance of your belief that you had such a right that you made this entry?

A. Yes, sir.

Q. Didn't anybody hire you to go onto this land and enter it for them? A. No, sir.

Q. Did anybody say to you they would give you day's wages for going up there and taking up this land?

A. No, sir.

Q. You had no conversation of that kind with any person? A. No, sir, not a bit.

Q. Was your understanding at the time when you made this first filing that you could take this land and have the land for your own? A. Why, certainly.

Q. If you paid the government price for it?

A. Yes, sir.

Q. Now, in pursuance of that notion that you had, as I understand, you went upon the land for the purpose of examining it, finding out what kind of land it was?

A. Yes, sir.

Q. You did that, did you? A. Certainly.

Q. Did you devote sufficient time to the examination

(Testimony of Robert Starkie.)

of the land to ascertain whether it was more valuable for timber than it was for agricultural land?

A. I did.

Q. For which purpose was it the most valuable?

A. For the timber.

Q. Did it have any value for agricultural purposes?

A. No, sir, not any.

Q. Now, you also stated in your sworn statement when you filed on the land with reference to this land, as follows:

"That it contains no mining or other improvements, nor as I verily believe any valuable deposit of gold, silver, cinnabar, copper or coal, and that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, or in any way or manner with any person or persons whomsoever, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person execpt myself." Was that statement true?

A. Why, certainly, I took it up for my own benefit.

Q. And for your own use?

A. For my own use certainly.

Q. You concluded at the time when you took that up that nobody else should receive any interest in this land except yourself.

(Testimony of Robert Starkie.)

A. No, sir.

Q. I will ask you to state, Mr. Starkie, whether or no at that time you had any talk or conversation by which you were obliged or felt under any obligation, either legal or moral, to transfer that land to anybody?

A. No, sir; not a bit.

Q. And between the time of making this sworn statement in the Missoula land office and the time of your final proof you say a period of ten weeks intervened or elapsed?

A. Somewhere in that neighborhood; I am not just certain of the amount of time.

Q. Now, at the time when you went to the land office with your witnesses to make final proof I will ask you whether or no the officer at the land office read certain questions to you and asked you to answer them, and whether those answers were taken down in writing when you made your final proof? A. Yes, sir.

Q. Among other things it appears that question No. 13 was propounded to you as follows:

"Have you sold or transferred your claim to this land since making your sworn statement or have you directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which you may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except yourself?" To which you answered, "No." Was that answer true?

A. Yes, sir.

(Testimony of Robert Starkie.)

Q. And again you say in answer to question No. 14, which is as follows: "Do you make this entry in good faith for the appropriation of the land exclusively to your own use and not for the use or benefit of any other person?" You answer "Yes," was that answer true?

A. Certainly; yes, sir.

Q. And you are asked this question: "Had any other person than yourself, or has any firm, corporation, or association any interest in the entry you are now making, or in the land, or in the timber thereon?" To which you answered, "No, sir." Was that answer true?

A. Yes, sir; it was.

Q. Now, as a matter of fact, the arrangement which you testified to having made with Mr. Cobban with reference to borrowing money from him had no relation to the subsequent sale of the land to Mr. Cobban, had it?

A. No, sir; nothing whatever.

Q. In other words, there was no agreement or contract that you were to sell the land to Mr. Cobban?

A. No, sir.

Q. The agreement only was that you were to repay the money which you borrowed from him? A. Yes, sir.

Q. I will ask you to state as to the following statement which I find attached to your paper:

"United States Land Office, Missoula, Montana, August 1st, 1900. Robert Starkie being first duly sworn according to law, deposes and says: That he is the same person who made the timber and stone entry November 25th, 1899, for the west half of the southwest quarter, and the

(Testimony of Robert Starkie.)

northeast quarter of the southwest quarter, and the southwest quarter of the northwest quarter of section 22, township 15 north, of range 16 west, Montana Meridian.

That the final proof in said matter was not made on November 17th, 1899, the date given in his published notice, for the reason that he was disappointed in obtaining the money to make payment for said land; that he had made arrangement with parties in Missoula and had been promised the necessary money, but that on November 17th said parties were absent from the town of Missoula and that he could not get the money from them until the 25th of said month; that he went to the United States Land Office at Missoula, Montana, and stated to them the facts in the case and was by the officers advised that he could wait until said parties had returned to Missoula and that the delay for a few days would not cause the rejection of said proof.

"(Signed) ROBERT STARKIE.

"And subscribed and sworn to before me this first day of August, A. D. 1900.

ELMER E. HERSHEY,
Register."

Q. That affidavit was true, was it, Mr. Starkie?

A. Yes, sir, that is true.

Q. Then, as a matter of fact, you obtained your money and borrowed the money which to make final proof at a date subsequent to the date when your final proof was advertised to take place? A. Yes, sir.

(Testimony of Robert Starkie.)

Q. You so notified the officers of the United States land office at Missoula, Montana? A. I did.

Q. Did you afterwards go to the United States land office and pay this money into the land office and receive your final receipt for the money so paid?

A. Yes, sir.

Q. At that time did you receive the final certificate, or any other papers showing that you had paid this money?

A. Yes, sir.

Q. What did you do with them?

A. With them?

Q. As a matter of fact, didn't you give it to Mr. Cobban at the time when you sold the land to him?

A. I believe that is what I did.

Q. That being part of your muniment of title, wasn't it? A. Yes, sir.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Now, Mr. Starkie, do you remember of going to the land office and your not making your final proof on the day it was advertised? A. Yes, sir, I do.

Q. And the fact that on that day you did not make your final proof?

A. No, sir, not the day we were advertised to.

Q. John B. Reeve, your father in law, went with you?

A. Yes, sir.

Q. And your brother in law, Mr. Ehle?

Mr. WALSH.—We object to that as leading.

A. No, sir, Mr. Ehle was not along.

(Testimony of Robert Starkie.)

Q. Well, then, it seems from what your counsel have brought out here that on the day it was advertised for you to make your final proof you did not pay the money into the land office on that day?

A. No, sir, I did not.

Q. Why was that?

A. Because I did not prove up that day.

Q. Why didn't you prove up?

A. Because I could not get the money.

Q. Why couldn't you get the money?

A. Because Mr. Cobban was not there.

Q. Because he was not in town, you mean?

A. No, sir, he was not in town, we could not borrow the money that day; he was not there.

Q. How did you ascertain that fact?

A. That he was not there?

Q. Yes. A. By going to see, into his office.

Q. Did you go? A. Yes, sir.

Q. Who went with you?

A. If I remember right Mr. Reeve went with me.

Q. Do you remember anybody else?

Mr. WALSH.—We object to all this as irrelevant and immaterial.

A. I do not.

Q. And you there ascertained the fact that Mr. Cobban was out of town? A. Yes, sir.

Q. Then what did you do?

A. Waited until he came back.

(Testimony of Robert Starkie.)

Q. And you went to the land office and told them you could not prove up on that day? A. Yes, sir.

Q. How did you find out that Mr. Cobban had returned?

A. I came to town to find out; we were in town two or three times a week right along; it was no trouble to go in to his office and see if he had come back.

Q. Then after you found out that he had returned to town, you went to the land office and proved up?

A. Yes, sir.

Mr. MAYNARD.—Just simply for the purpose of connection I read from the original statement which the witness has identified as his own the description of the land therein contained, which is: The west half of the southwest quarter, and the northeast quarter of the southwest quarter, and the southwest quarter of the northwest quarter of section 22, township 15 north, of range 16 west.

Mr. WALSH.—We move to strike this out as not being the testimony of the witness.

Mr. MAYNARD.—And from the affidavit of publication I read that he was to appear before the register and receiver of the Missoula land office at Missoula, Montana, on Friday, the 17th day of November, 1899.

Mr. WALSH.—We move to strike this out as not in the testimony of the witness.

Mr. MAYNARD.—That as a matter of fact that you did not appear on that day, but from the original receipt

(Testimony of Robert Starkie.)

issued by the receiver of the Missoula land office it appears that four hundred dollars was paid into the land office by the witness Robert Starkie on the 25th day of November, 1899.

Mr. WALSH.—We move to strike this out as not being the testimony of the witness.

Mr. MAYNARD.—Further reading from the original files, Robert Starkie, the witness, on August first of the next year, namely, August 1st, 1900, made an affidavit as follows:

Mr. WALSH.—We object to this because it is a repetition of the testimony already gone into on cross-examination of the witness.

(Mr. MAYNARD reads:)

DEPARTMENT OF THE INTERIOR,

United States Land Office,

Missoula, Montana, August 1st, 1900.

Robert Starkie being first duly sworn according to law, deposes and says: That he is the same person who made timber and stone entry number 1187, November 25th, 1899, for the west half of the southwest quarter, and the northeast quarter of the southwest quarter and the southwest quarter of the northwest quarter, section 22, township 15 north, of range 16 west, Montana Meridian.

That the final proof in said matter was not made on November 17th, 1899, the date given in his published notice, for the reason that he was disappointed in obtaining

(Testimony of Robert Starkie.)

the money with which to make payment for said land; that he had made arrangements with parties in Missoula and had been promised the necessary money, but on November 17th said parties were absent from the town of Missoula and he could not get the money from them until the 25th of said month; that he went to the United States land office at Missoula, Montana, and stated to them the facts in the case and were by the officers advised that he could wait until said parties returned to Missoula, and that the delay for a few days would not cause the rejection of said proof.

(Signed) ROBERT STARKIE.

Subscribed and sworn to before me this 1st day of August, A. D. 1900.

ELMER E. HERSHEY,
Register."

Mr. MAYNARD.—And that on the date of final proof, namely, the 25th day of November, as appears from the certified copy of the deed on file and received in evidence in this case, being Complainant's Exhibit No. 64, it appears that said Robert Starkie and Mary A. Starkie did convey the land described in the original statement which I have read, namely, the west half of the southwest quarter, the northeast quarter of the southwest quarter and the southwest quarter of the northwest quarter, of section 22; also the south half of the northeast quarter and the north half of the southeast quarter of section 32, in township 15 north, of range 16 west, Montana Meridian.

(Testimony of Mary A. Starkie.)

And the consideration price therein named is eighteen hundred dollars and the notary is Wallace P. Smith.

Mr. WALSH.—This we also move to strike out on the ground that none of them are in the testimony given by any witness, but a mere reading of evidence into the case by counsel.

ROBT. STARKIE.

Subscribed and sworn to before me this 22d day of March, A. D. 1902.

HENRY N. BLAKE,
Examiner.

MARY A. STARKIE, a witness on behalf of the complainant, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Is your name Mary A. Starkie? A. Yes, sir.

Q. What was your name before you were married?

A. Mary A. Reeves.

Q. Is that R-e-e-v-e-s? A. Yes, sir.

Q. You came from Idaho with what are known here as the Idaho witnesses? A. Yes, sir.

Q. With your husband and father and mother?

A. Yes, sir.

Q. And brother in law? A. Yes, sir.

Q. And sister in— A. Yes, sir.

Q. You are the wife of Robert A. Starkie that was sworn here as a witness? A. Yes, sir.

(Testimony of Mary A. Starkie.)

Q. Do you remember the fact of your taking up a claim under the Stone and Timber Act?

A. Yes, sir.

Q. Is that your signature? A. Yes, sir.

(Mr. MAYNARD reads:) Missoula, Montana, September 18th, 1899. Mary A. Starkie of Missoula, Missoula County, Montana, desiring to avail myself of the provisions of the act of Congress of June 3d, 1878, entitled, etc., for the purchase of the south half of the northeast quarter and the north half of the southeast quarter of section 32, township 15 north, of range 16 west, in the district of lands subject to sale at Missoula, Montana.

Q. This was on the 18th day of September, 1899?

A. Yes, sir.

Q. How old are you, Mrs. Starkie?

A. Why, I think I was thirty-two last January.

Q. How long have you been married to Mr. Starkie?

A. About eight years, I believe.

Q. Eight years ago? A. Yes, sir.

Q Have you any children?

A. Yes, sir, three.

Q. Your name was Mary A. Reeve?

A. Yes, sir.

Q. Where were you living at the time you were married?

A. We were living between Avon and Elliston, in Deer Lodge County, I believe, Montana; I think it is Deer Lodge County.

Q. You know you were living there?

(Testimony of Mary A. Starkie.)

A. Yes, sir.

Q. With your father and mother?

A. Yes, sir.

Q. At the time of your marriage?

A. Yes, sir.

Q. Did you have any property at the time you were married? A. No, sir.

Q. Have you acquired any since? A. No, sir.

Q. Where were you living just before you filed?

A. We were living about nine miles from Missoula up the Bitterfoot valley.

Q. With your husband? A. Yes, sir.

Q. What was he doing?

A. Hauling wood, I believe, when he did not get a job in town.

Q. Did you ever live up in the Blackfoot country?

A. No, sir. Oh, we did one winter, yes, they logged up there one winter, I believe, two winters, I think; I am not positive, though, I know we did one winter.

Q. Where was that?

A. It was up near Potomac, I believe.

Q. You are certain you were up there one winter?

A. Yes, sir.

Q. How near Potomac?

A. I think it was about three miles from Potomac postoffice.

Q. What were you doing up there?

A. I was keeping house for my husband; they were logging.

(Testimony of Mary A. Starkie.)

Q. You say you think you might have been up some other winter?

A. I don't know whether we were up there twice or not; I am not positive; I don't think we were. I think that was the only winter we were up there at that place; yes, we were up there twice; I remember distinctly now we were up there at Potomac; I don't know of any place near; fifteen miles this side of Potomac the second time.

Q. Where was that?

A. I don't know what they call the place; I have forgotten the man's name they were working for.

Q. What were you doing?

A. Keeping house for my husband.

Q. But you don't know where it was?

A. I don't know; there is no place near that I know of, only fifteen miles from Potomac.

Q. Right in the woods? A. Yes, sir.

Q. What was your husband doing?

A. He was working for this gentleman; I can't remember the name now.

Q. What was he doing? A. Logging.

Q. How far were either of these places from the land you took up?

A. I don't know; it was a long ways, I know.

Q. Well, how many miles would you say?

A. I don't know whether it would be more than forty or fifty miles or not; I know it was quite a long ways.

(Testimony of Mary A. Starkie.)

Q. So you never were up in that country where the land was that you located except the time when you did locate?

Mr. WALSH.—We object to that question as leading.

A. Not until I went up that time.

Q. Did you go on it before you filed in the land office?

A. Yes, sir; I am not positive, I think I did.

Q. You don't know whether you did or not?

A. I think I did.

Q. What makes you think so?

A. I say I think so; I am not quite positive; I most certainly think I did.

Q. Do you remember any of the facts and circumstances connected with your going up into the mountains?

A. No, only that we went up by team and stopped up with my sister and brother in law; but I don't know whether we camped out going up there or stopped at some place; I have forgotten exactly whether we stopped at places going along or not; we camped at the place near the land, near the foot of the mountains, so it would not be so far to walk up to it.

Q. You were living in the Bitterroot Valley at the time, were you not A. Yes, sir.

Q. Who was in the party?

A. My husband, myself, my father, and my brother in law and sister.

(Testimony of Mary A. Starkie.)

Q. Six of you? A. Yes, sir.

Q. Did you go near Potomac?

A. Why, I thought we had to go right through Potomac; it is only a postoffice, a postoffice on the road.

Q. Then you went thirty or forty miles over up in the mountains this first time you had ever been up there?

A. I never had been any further than Potomac.

Q. You never had been any further than Potomac?

A. No, sir.

Q. For what purpose did you go, leave home?

A. Went to look at the land, find out what it was.

Q. Took your child with you?

A. Yes, sir.

Q. Who first told you about this taking up of these claims?

A. I don't know. I heard folks talking about it; my husband and father talking about that they had got claims; I heard a good deal about it in the papers, the advertisements in the papers.

Q. What did you hear in the papers about it?

Mr. WALSH.—We object to this question on the ground that it is hearsay, and upon the further ground that it is irrelevant and immaterial.

A. Well, I don't know what you would call it, but I heard the names of those that had taken up before; I believe I seen quite a while ago that a party had a right to take up claims.

Q. What did you hear your husband and father say?

(Testimony of Mary A. Starkie.)

Mr. WALSH.—We object to that question upon the ground that it is hearsay.

A. I asked him if we had a perfect right to take it; I did not know until I asked someone if it was legal to take up any land, and he said yes.

Q. Did you have anything to do with the business from the beginning to the end?

A. Well, no, sir; I was in my husband's hands; I had two little children, and I could not very well get around with them.

Q. Your father and husband made all the arrangements about it?

Mr. WALSH.—We object to that question as leading.

A. Yes, sir.

Q. For what purpose did you take up this claim?

A. Took it up to benefit myself a little, because I wanted the money.

Q. Just how were you to benefit yourself by it?

A. Well, I don't know; could not exactly state just now; that's what I do with it, if any at all.

Q. What did you say?

A. I don't just remember just now.

Q. Did you succeed in your expectations and get any benefit at the time yourself?

Mr. WALSH.—We object to this as leading and not calling for a fact from the witness.

A. I don't remember.

(Testimony of Mary A. Starkie.)

Q. Have you any recollection of what you did with the land after you made final proof?

A. Why, I sold it after we made final proof, yes, sir.

Q. Do you know who you sold it to.

A. Mr. Cobban, I believe.

Q. Do you know whether you received any money from him for that sale?

Mr. WALSH.—We object to that as leading.

A. No, sir, I do not; as I said before, I left it in my father's and my husband's hands.

Q. Left it in your husband's and father's hands?

A. Yes, sir, they both were together.

Q. Didn't you go?

A. I don't remember going at that time. Do you mean when they went up to make final proof?

Q. No, I mean when you sold your land.

A. No, sir, I did not.

Q. You didn't go? A. No, sir.

Q. Well, you knew that when you sold your land you had to sign your name to a deed, didn't you?

A. Well, I think they told me so.

Q. Have you any recollection as to whether you did or not? A. Yes, sir.

Q. You do recollect that, do you? A. Yes, sir.

Q. Where were you?

A. I don't know just whose office it was—the land office, I believe; I think it was the land office.

Q. In the land office that you did what?

(Testimony of Mary A. Starkie.)

A. Signed the deed; I thought that was the question you asked.

Q. You thought it was in the land office?

A. Well, I won't be certain.

Q. Well, at that time did you have any personal acquaintance with Mr. Cobban?

A. No, sir, only by hearsay; he was a particular friend of my father's for a good many years; I have just heard him speak about him, but had never met him.

Q. He was a particular friend of your father's?

A. Yes, sir, quite a number of years back in Wisconsin.

Q. Back in Wisconsin? A. Yes, sir.

Q. Now, let me ask you, Mrs. Starkie, again, have you any present recollection of ever having been in Mr. Cobban's office?

A. I never had before, and I don't think I have been since. I have no recollection of being there at any time.

Q. Can you give any fact or state anything which would lead you to believe that you were in the land office at the time that you sold to Mr. Cobban?

A. I do not; it was some office I had to go to to sign the papers; I am not sure it was the land office.

Q. Some office you had to go to sign the papers?

A. The land office, I am most sure it was.

Q. Who did you go with when you went to sign the deed?

(Testimony of Mary A. Starkie.)

A. My father and husband and mamma all went together.

Q. All went together? A. Yes, sir.

Q. Did they all sign their deeds at the same time?

A. I believe they did; I think so.

Q. Do you know a man by the name of Wallace F. Smith? A. No, sir.

Q. You don't know him?

A. No, sir, I have never heard of him that I know of.

Q. Never heard of him that you know of?

A. No, sir, I don't think so.

Q. Well, then, have you no recollection of ever having been in his office?

A. Well, I don't know the man's name.

Q. You don't know the man's name?

A. No, sir.

Q. You were in some man's office?

A. I think so.

Q. Can you recall now who were present in that office when you signed the deed, besides that man and your party that went with you to sign the deed?

A. No, sir.

Q. Did you see anybody else?

A. Why, I don't remember.

Q. Do you remember where you had been just before you went into this office to sign the deed?

A. I think we went from the Rankin house; I did.

Q. Didn't you get any money yourself for the land?

A. No, sir.

(Testimony of Mary A. Starkie.)

Q. Never did? A. No, sir.

Q. Who did get it?

A. I don't know; my husband done all the business. I did not get around very much on account of the children, only when I had to; my little boy was quite small.

Q. How much did your husband get for it?

A. I don't recollect just how much he did get.

Q. Did you ever know?

A. Well, I never asked him in particular; I don't know as I ever did ask him.

Q. You are sure you did not get any money?

A. Yes, sir.

Q. Do you know how your land was paid for?

A. We had to borrow the money to pay for the final proof, I believe; I think that is what we borrowed it for.

Q. Do you know from whom it was borrowed?

A. Mr. Cobban.

Q. When?

A. I don't know; I don't know when they did get it; I don't remember.

Q. Who told you that they had borrowed it from Mr. Cobban?

A. Well, I heard them say they thought they could get it from him; he was loaning money at that time, I think.

Q. Just tell us all you heard?

A. I don't remember, because I did not pay so very much attention to it, only I just knew we could take up the land and I left it in their hands, I cannot recall any conversation of anything they said about it.

(Testimony of Mary A. Starkie.)

Q. There wasn't anything said by anybody in the party as to what was to be done with the land after you took it up, was there?

A. They said they could sell it for the timber.

Q. Who were they going to sell the timber to?

A. At that time or about that time I think there were several parties that were buying, if I remember right, I think I did hear them say they were going to sell to—I don't know what party, I cannot recall the name of it now, but it is near Missoula, I believe at Bonner.

Q. You never heard anything said about the fact that they were going to sell to Mr. Cobban?

A. No, sir.

Q. His name was never mentioned?

Mr. WALSH.—We object to that for the reason it is leading.

A. Not selling it to him, no, sir, only borrowing the money, that is all I understood anything about it; of course, I did not question them about it, I think that they got the land and sold it and that it all I know about it. I did not care who it was bought.

Q. But if they got the land and sold it, what did you care anything about that for, what interest is that to you?

A. Could not very well keep it and log it.

Q. What did you care whether they sold the land or not? A. I don't know, really.

(Testimony of Mary A. Starkie.)

Q. You had no interest in the matter any way, had you?

Mr. WALSH.—We object to that for the reason that it is leading.

A. Yes, sir, I wanted to sell the land for my own interest.

Q. What interest?

A. To help myself a little bit.

Q. To help yourself a little bit?

Mr. WALSH.—We object to the repetition of the answer of the witness by counsel and move to strike it out.

A. Yes, sir.

Q. Did you help yourself any by selling it?

Mr. WALSH.—We object to that as leading and not calling for any fact.

A. I don't really remember whether I did or not.

Q. You don't remember whether you did or not?

A. No, sir.

Q. If you wanted to benefit yourself a little bit, Mrs. Starkie, by taking up this land and selling it, didn't you ask or make any inquiries as to whether you had been in fact benefited by the same?

Mr. WALSH.—We object to that question as immaterial and irrelevant and for the further reason that it is leading and cross-examination.

A. No, I don't know hardly anything about that, because I left it in their hands, and I don't know, I don't

(Testimony of Mary A. Starkie.)

remember the particulars of anything at all; I didn't think much about the matter afterwards, and most of the details have passed from my mind; I have never taken any thought of it since.

Q. Do you say that you did not receive any money yourself at all? A. No, sir, I did not.

Q. Nor you did not ask your husband how much money he got for you?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. No, sir.

Q. Well, why didn't you ask him, Mrs. Starkie?

A. Well, I thought he had—I don't know why I did not ask him.

Q. Didn't you hear at the time from your husband or your father, or your mother, or your sister, as to what they got out of it?

Mr. WALSH.—We object to that question for the reason it is leading.

Q. For the sale of their lands?

A. No, sir, I did not interest myself enough in it, only just taking up the land, and I let them go ahead and do the business for me.

Q. And they did the business for you?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. Yes, sir.

Q. And after they had done the business for you you

(Testimony of Mary A. Starkie.)

made no inquiries as to what the result of that business was?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. I might have heard them say then, but I do not remember now, I could not repeat anything at all.

Q. You might have heard them say then?

A. I might have, yes, sir, but I don't remember any of the conversation at all now. I don't remember it if they had a conversation at all; I would be interested in selling the land, but the baby was not very well at that time, and afterwards I paid no particular attention to it.

Q. Do I understand then that what you now swear to that you have no recollection at all as to whether any of your relatives, your father or your mother, your husband, yourself or your sister, made any money out of this transaction in any way?

Mr. WALSH.—We object to the question because it is leading.

A. I am not positive, I don't really know.

Q. Well, if you did not really know, have you any recollection, or did you receive any information, did they tell you anything about it?

Mr. WALSH.—We object to that question for the reason it is leading.

A. No, sir.

Q. Never told you anything about it?

(Testimony of Mary A. Starkie.)

A. I was not interested in anything they were doing only myself.

Q. Did not seem to be very much interested in yourself?

A. No, only in taking up the land, as I said before.

Q. Well, do you recollect paying out any money at all from the beginning to the end?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. No, sir.

Q. Of the transaction? A. No, sir.

Q. Do you recollect receiving any money?

Mr. WALSH.—We object to this question for the reason it is leading.

A. No, sir.

Q. Do you recollect of receiving any paper of any kind from anybody?

Mr. WALSH.—We object to that for the reason it is leading.

A. No, sir, I do not.

Q. Did you give any paper or sign any paper except this deed that you signed?

Mr. WALSH.—We object to this question for the reason it is leading.

A. I don't think I did, I am not sure.

Q. Have you any recollection of the location of the land that you took up?

A. Why, I know it is up on the mountain side, very

(Testimony of Mary A. Starkie.)

hilly and stony; I could not explain where it is now, I don't believe, it has been such a while since we were up there.

Q. That was the only time you were ever up there?

Mr. WALSH.—We object to this question for the reason it is leading.

A. That was the only time we ever went over the land.

Q. Do you know Albert Jemison?

A. That was the first time I had ever met him. I have never met him since, only saw him on the street in Missoula, not to speak to him.

Q. The only time you ever met him was when he was up there in the mountains with your party?

A. Yes, sir.

Q. Have you any recollection of what you did at the time you went up to your mountain side, your location?

A. Why, none at all, only we went up there, papa and mamma. I think the rest of the party went up; I am not sure about that. I know we went up, I think they did all go up; I am not sure; we went up to look over the land, see where the corners were, see the timber; papa and my husband took the lines, I believe.

Q. Albert Jemison was there, wasn't he?

A. Yes, sir.

Q. How long were you on your piece?

A. I don't know just how long; we started up in the morning, as early as we could go up there, and it was

(Testimony of Mary A. Starkie.)

some time in the afternoon when we got down; I am not sure about it.

Q. Could not you remember on that one day besides going to your piece; didn't you go to other pieces?

A. No, sir.

Q. No other locations made?

A. I never made any other location.

Q. I mean the party, either your father, mother, brother in law or any of the others with you?

A. I am not certain about it, they showed us where their locations were. I think they had taken theirs up before that, I am not sure about it, I don't remember going on their land, but they showed us about where it lay, we could see it down the mountain side.

Q. Then, after this day spent in the mountains in that way, you went home?

A. I believe we had to stay all night there again in camp; I think we went from Jemison's over to the camp; I believe we had to stay there that night, or one or two nights, I am not sure which; I know we stayed all the night after we came down from the mountain; they started early in the morning so as to get as near home on the way as we could.

Q. Who was with you then?

A. My brother, sister, brother in law, mother, father and myself.

Q. Then, did you go to the land office on your return to Missoula?

(Testimony of Mary A. Starkie.)

A. Well, I am not positive whether we did right away or not.

Q. Do you remember going to the land office?

A. Yes, sir.

Q. Do you know what filing means?

A. If I understand right, it is taking up a piece of land, isn't it?

Q. And you filed this statement? A. Yes, sir.

Q. Do you know where this paper was filled out?

A. No, sir, I do not.

Mr. MAYNARD.—I refer to the sworn statement.

Q. You don't know who wrote that in these blanks, filled up the blanks?

A. I don't remember who wrote it, no, sir.

Q. Nor where it was done?

A. Well, I think Mr. Pound, it was in Mr. Pound's office I think I signed my name.

Q. It was?

A. I think so; that is the only time I was there.

Q. And you signed your name in Mr. Pound's office?

A. I think it was there.

Q. That is, when you signed your name to this paper?

A. Yes, sir, I don't remember, though, for sure whether it was there or not, I won't say positively.

Q. But you remember the signing?

A. Yes, sir, I remember signing my name to it.

Q. In Mr. Pound's office?

(Testimony of Mary A. Starkie.)

A. I won't say for certain, I won't say positively, I cannot say for sure.

Q. Did you have anything to do with the business after that?

A. Why, I don't believe, only signed the proof, I believe that is all, I don't remember.

Q. Signed your name to the sworn statement and to the final proof? A. Yes, sir.

Q. That is all you can remember of the whole thing except to go up on the mountain? A. Yes, sir.

Q. This final proof was made by you on the 25th of November, 1899, and on that same day you sold the land to Cobban?

Mr. WALSH.—We move to strike this out as a declaration of counsel and not in the testimony given by the witness.

A. I don't remember whether it was the same day or not.

Q. Have you any recollection of any fact or circumstance connected with the sale?

A. No, sir, I have not. I think my husband did all that; I am sure he did. I don't think I had anything to do with the sale.

Mr. MAYNARD.—I read from the certified copy of the deed: This indenture made the 25th day of November, in the year of our Lord, one thousand eight hundred and ninety-nine, between Robert Starkie and Mary A. Starkie, husband and wife, by which they con-

(Testimony of Mary A. Starkie.)

vey to R. N. Cobban the land described in the sworn statement that was entered by her husband. Acknowledgment was made before Wallace P. Smith, a notary public in and for the County of Missoula.

Mr. WALSH.—We move to strike out the statement of the counsel concerning what the deed shows.

Thereupon further hearing was continued until Tuesday, March 25th, 1902, at 10 A. M.

Monday, March 24th, 1902, Two o'clock P. M.

Hearing resumed, pursuant to recess.

Thereupon MARY A. STARKIE was called to the stand for cross-examination.

(By Mr. BICKFORD.)

Q. As I understand you, Mrs. Starkie, you were living in the Bitterroot valley at the time you took up this land in the Blackfoot? A. Yes, sir.

Q. And you went from the Bitterroot to the land to take it up? A. Yes, sir.

Q. Did you go over the land before you had made your filing on it? A. Yes, sir.

Q. Made something of an examination of it, did you? A. Yes, sir.

Q. You satisfied yourself, I suppose, that the land was more suitable—or more valuable for the timber on it than for agricultural purposes? A. Yes. sir.

Q. Had you ever therefore made a timber and stone entry? A. No, sir.

Q. You were a citizen of the United States, over the

(Testimony of Mary A. Starkie.)

age of twenty-one years at the time you made this timber and stone entry, were you not? A. Yes, sir.

Q. After examining the land and discovering that it was more valuable for timber than it was for agricultural and other purposes, you then went to the United States land office and made your entry there?

A. Yes, sir.

Q. At the United States land office, Mrs. Starkie, you signed a sworn statement there, or a statement partly in writing, and partly printed, wherein you applied to enter under the Timber and Stone Act, the south one-half of the northeast quarter and the north half of the southeast quarter of section 32, township 15 north, of range 16 west of the principal meridian of Montana. That is the kind of a paper you filed in the United States land office at the time you went to the land office to file on this land? A. Yes, sir.

Q. And in this statement, and as a part of it, you say that "it," meaning the land, "contains no mineral—contains no mining or other improvements, nor as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said acts; that I do not apply to purchase the land above-described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, or in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the Government of the United

(Testimony of Mary A. Starkie.)

States may inure in whole or in part to the benefit of any person except myself"? A. Yes, sir.

Q. That was what you stated, is it?

A. Yes, sir.

Q. And that was true at the time, was it?

A. Yes, sir.

Q. Now, as I understand you, between the time of making your entry and the time when you made your final proof on this land, you went to your home in the Bitterroot, and then when the time for your final proof again about came around, you went to the land office to make your final proof, did you not?

A. Yes, sir.

Q. You remember the two different times that you went to the land office, don't you? A. Yes, sir.

Q. Well, the second time that you went to the land office with reference to this land, was at the time you made your final proof, was it not?

A. I believe so, yes, sir.

Q. Now, you stated at that time, in your answer to certain questions that were put to you by the officers of the land office, and you gave answers to those questions at that time? A. Yes, sir.

Q. You remember that fact, do you?

A. Yes, sir.

Q. You remember saying that the land was chiefly valuable for its timber at that time, do you not?

A. Yes, sir.

Q. Now, among other things, certain questions were

(Testimony of Mary A. Starkie.)

asked you at this time, and one of them was as follows: "Have you sold or transferred your claim to this land since making your sworn statement, or have you directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which you may acquire from the Government of the United States, may inure in whole or in part to any person except yourself?" You remember that question being asked, do you? A. Yes, sir.

Q. And to that question, you answered, "No, sir"?

A. Yes, sir.

Q. Was that answer true?

A. Yes, sir, that was true.

Q. And you were also asked this question, Mrs. Starkie: "Do you make this entry in good faith, for the appropriation of the land exclusively to your own use, and not for the use or benefit of any other person?"

A. Yes, sir.

Q. And your answer to that question, "I do, for my own use. I am a married woman, and I purchase this land with my own money, and which my husband has no interest in or claim to." Was that true?

A. Yes, sir.

Q. This question was also asked you: "Has any other person than yourself, or has any firm, corporation, or association any interest in the entr you are now making, or in the land, or in the timber thereon?" To which you answered, "No, sir."

A. Yes, sir.

(Testimony of Mary A. Starkie.)

Q. That answer was true, was it not?

A. Yes, sir.

Q. Now, with reference to the different offices to which you went, while in Missoula. Do you know the difference between the land office and the office of Wallace P. Smith?

A. Well, when I come to think it over, I get mixed up. I was not acquainted very well—

Q. As a matter of fact, you are not very well acquainted there are you, Mrs. Starkie, with the different offices?

A. No, sir, I was not. I was puzzled about the location of both of these offices this forenoon.

Q. If I call to your attention the fact that the land office is down near the bridge on the right-hand side as you go down, you would be able to say that that was the place where you went to?

A. Yes, sir, come to think it over that was the place.

Q. Now, that was not the office in which you signed a deed for the land, was it?

A. No, sir, I think not.

Q. You think not. Now, is it not a fact that you signed a deed to the land in an office further up the street on Higgins Avenue, further up the street in what is known as the Higgins Block.

A. I do not know what the block is called, but I think that is the name of it. It was in the office of Mr. ——

Q. Pound? A. Yes, sir.

(Testimony of Mary A. Starkie.)

Q. In Mr. Pound's office? A. Yes, sir.

Q. But the notary public came into that office, and asked you to sign a deed? A. I think so.

Q. He came to you for that purpose, but did you go to any other office? A. I don't remember.

Q. You don't remember whether that is the place or not? A. No, sir.

Q. You don't know whether it was in Mr. Smith's office or in some other office that you acknowledged the deed?

A. No, sir, I was not acquainted with the names of the parties.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Do you know who your witnesses were at all?

A. I think that my father was one, and, if I am not mistaken, I think my brother in law was the other one. As to the names I cannot remember now.

Q. Who did you say? Your father was one, and who was the other?

e A. I think my brother in law was.

Q. How long had you known Mr. Griswold at the time of making your final proof?

A. Why, I had never met Mr. Griswold to speak to him, I knew who he was by—just to know who he was. I had never spoken to him to pass the time of day, or anything of that kind because I did not happen to be acquainted with him.

(Testimony of Mary A. Starkie.)

Q. Well, did you know who he was at the time of making your final proof?

A. No, sir, I did not.

Q. When did you first find—when did it first come about that you knew him by sight?

A. I could not recall any time; I could not remember. It is just a common occurrence when anyone goes along the street, and I speak to them, or pass them.

Q. What is that?

A. I don't know just how I happened to find out who he was. I don't remember at all. I don't think I have ever heard Mr. Griswold's name mentioned until after this case was commenced, at all, and then he was pointed out to me.

Q. Well, I see that Mr. Griswold was one of your witnesses at the time that final proof was made.

A. Well, he might have been, but I don't remember. I remember distinctly my brother in law, and I think it was my father. I know he was a witness, but about the other two, why, I don't recall their names. I don't remember it at all.

Q. If he was a witness or not, and you don't know, of course, if you had nothing to do with it?

A. No, sir.

Q. Not knowing him, you know nothing about his being a witness for you?

A. Not knowing him, no, sir.

(Testimony of Mary A. Starkie.)

Recross-examination.

Q. As I understand it, Mrs. Starkie, you were ill at the time of your making final proof, and did not go to the land office with other witnesses, but remained in the hotel while the other witnesses were giving their proof?

By Mr. MAYNARD.—She has never said that.

By Mr. BICKFORD.—I know, but I am asking her if that is not a fact.

A. I don't remember of anything of the kind. I know I stayed at the hotel, or went somewhere. I don't remember just where it was.

Q. Well, did you go alone, or did you go with the rest of them, is what I am trying to find out.

By Mr. MAYNARD.—I object to counsel, putting into the witness' mouth that she was sick, as she has said nothing about it in her testimony.

Q. Well, were you not ill at that time, Mrs. Starkie?

A. I believe I had a severe sick headache and could not go out.

Q. Well, do you remember the fact of not going to the land office with other witnesses?

A. I think I went down with them, if I am not mistaken.

Q. You think you went with them?

A. I know I had a severe headache.

Q. You are subject to those headaches are you not, Mrs. Starkie?

A. Yes, sir, I had one this forenoon. I was quite ill.

(Testimony of Mary A. Starkie.)

Q. That was while you were giving your testimony this morning? A. Yes, sir.

By Mr. MAYNARD.—I simply desire to read from the original records, and to state that Mary A. Starkie named as her witnesses J. B. Reeve, of Missoula, Montana; A. Ehle, of Potomac, Montana; C. L. Griswold, of Clearwater, Montana; and Albert Jamison, of Clearwater, Montana.

By Mr. WALSH.—We move to strike this out, as not being the testimony of any witness.

(Counsel continuing.)—and that at the time she made her final proof, in the case, the witnesses who appeared for her, are her father, J. B. Reeve, and C. L. Griswold.

By Mr. WALSH.—We move to strike that out also as not being testimony of any witness.

Subscribed and sworn to before me this 25th day of March, 1902.

_____,

Examiner in Chancery.

The witness, Mary A. Starkie, having left the stand, was recalled for further examination.

(By Mr. MAYNARD.)

Q. You are under arrest for perjury in this matter, are you not, Mrs. Starkie?

A. I believe I am, yes, sir.

By Mr. MAYNARD.—That is all.

MARY A. STARKIE.

(Testimony of Mrs. Eliza A. Reeve.)

Subscribed and sworn to before me this 25th day of March, 1902.

HENRY N. BLAKE,
Examiner in Chancery.

Mrs. ELIZA A. REEVE, a witness called by the complainant, being first duly sworn, by the examiner, testified as follows:

Redirect Examination.

(By Mr. MAYNARD.)

Q. Mrs. Reeve, what is your full name?

A. Eliza A. Reeve.

Q. And you are the mother of the last witness?

A. Yes, sir.

Q. And the mother of the other daughter?

A. Yes, sir, Nellie J. Ehle.

Q. Nellie J. Ehle? A. Yes, sir.

Q. And your husband, John S. Reeve, is sitting here by your side? A. Yes, sir.

Q. And you all came from Idaho, to testify, did you?

A. Yes, sir.

Q. How old are you, Mrs. Reeve?

A. Fifty-nine.

Q. How long have you been married to Mr. Reeve?

A. About thirty-three years, I believe.

Q. Let me ask you for information—do you spell your name Reeve? A. Yes, sir.

Q. Not Reeves?

(Testimony of Mrs. Eliza A. Reeve.)

A. No, sir. They generally call it Reeves, but it is not spelled that way.

Q. In other words, it is not your name?

A. No, sir.

Q. You were married in Wisconsin, were you, Mrs. Reeve? A. Yes, sir.

Q. And came here to Montana, when?

A. I cannot tell when it was. Have been here, I guess, ten or eleven years in Montana.

Q. And before that time you were living in Wisconsin?

A. Yes, sir, we lived in Wisconsin. We came from the northern part of Wisconsin.

Q. What was your name before you were married?

A. Schearrer.

Q. Are any of your relatives, your own relatives, living in this state?

A. No, sir, only my family. That is, my children and my husband, that is all.

Q. I mean on your side?

A. On my side, no, sir.

Q. You say that you have been married to and lived with your husband, Mr. Reeve, for over thirty years?

A. Yes, sir.

Q. How old were you when you were married?

A. I was twenty-two years old.

Q. Did you have any separate estate at the time that you married your husband? A. No, sir.

Q. Had no real or personal property?

(Testimony of Mrs. Eliza A. Reeve.)

A. No, sir.

Q. Had no money or property of any kind?

A. No, sir.

Q. Has any come to you since you were married, in any way? A. No, sir. Not to me.

Q. You have been attending to your duties as a wife and mother since your marriage?

A. Yes, sir.

Q. Now, then, I will show you the original statement in this case, Mrs. Reeve, and ask you to look at that signature, please, and see if you identify that as yours?

A. Yes, sir, that is my handwriting.

Q. I desire to read and extract from the statement as follows: "Land Office, at Missoula, Mont., Sept. 18, 1899. I, Eliza A. Reeve, of Missoula, Missoula County, Montana, desire to avail myself of the provisions of the act of Congress of June 3, 1878, etc., for the purchase of the southwest quarter of section 32 in township 15 north, of range 16 west, in the district of lands, subject to sale at Missoula, Montana." Sworn to on the 16th of September, 1899, before Elmer E. Hershey.

By Mr. WALSH.—We move to strike out the statement of the counsel, for the reason that it is not testimony of any witness.

Q. Where were you living at the time—just before you made this statement, Mrs. Reeve?

A. Before we went to look up the land?

Q. Yes, when you were looking up the land?

A. Well, we lived in Missoula at the time, before

(Testimony of Mrs. Eliza A. Reeve.)

we proved up, and then we moved into the Bitterroot, between eight and nine miles from there.

Q. Well, I will ask you whether between the time of the filing and the time of the proving up of your claim, you moved from Missoula up into the Bitterroot?

A. I think we did, yes, sir. After we went up there, I think we moved out to the Bitterroot.

Q. After what?

A. After we went to look up the lands.

Q. At the time of filing, you were living in Missoula, were you?

A. I think we did, if I am not mistaken. I think we lived in Missoula.

Q. And what was your husband doing, just at that time?

A. Well, I don't know whether—yes, I don't know whether he was working on the road, or whether he had quit then. He had been making a grade on the Bitterroot road, and I don't remember whether he had quit then or whether he had got through or not. But after we had been up there, we moved out to the Bitterroot, about eight or nine miles from Missoula.

Q. And this was the time that he was working on the road? A. Yes, sir.

Q. With your son in law? A. Yes, sir.

Q. Who did he go up into the mountains with?

A. I think he went up into the mountains with my son in law, Mr. Starkie.

Q. Do you remember the fact of your going up into the mountains?

(Testimony of Mrs. Eliza A. Reeve.)

A. Yes, sir. I remember it. I remember something about it. I say I remember it, and I do because my mother was with me. She went, I know, but she could not stand the ride and we left her at Missoula. We went on up to Missoula where my son and daughter in law lived, and my mother could not travel any further, so we left her there. But we went on up there to take up our claims.

Q. Had you ever lived up in the Blackfoot country?

A. Yes, sir, we have.

Q. When did you live up in the Blackfoot country?

A. I cannot tell you the year, but we were there two winters. We went up to Potomac, or about three miles from there, the last time we were up there. The other time that we were up there, we were about six miles from Potomac, I presume it was.

Q. That winter you lived three miles from Potomac, and the other one you lived six miles from Potomac?

A. Yes, sir, I presume it was that year.

Q. When were those winters? In what year?

A. I cannot tell you the year, because I am so forgetful. I don't take no—I don't put it down, and it is hard for me to remember, because I leave such things to my husband.

Q. What were you doing up there?

A. I was cooking.

Q. Whose camp were you at—who employed the men at that camp?

A. Well, I don't remember the man's name. He is

(Testimony of Mrs. Eliza A. Reeve.)

a big lumbering man, but I don't remember the name. My husband got me to cook for them.

Q. You say you have forgotten the name of the man who ran the camp?

A. Yes, sir, my husband got me to cook, but the man hired him and the men. Hired me to cook for them.

Q. To cook for who? A. For the men.

Q. How many men did you cook for?

A. Well, in the first place, there was probably about eight men the first time, and the last time we went up, I just cooked for ourselves. We were looking—

Q. What is that?

A. The last winter, we just cooked for ourselves. I didn't cook for anybody.

Q. What was your husband doing?

A. He was logging.

Q. For this same man?

A. No, sir. I think it was for Mr. Kilburn he was logging.

Q. Logging for Mr. Kilburn this last time?

A. Yes, sir.

Q. And the time before, who was he working for?

A. It was the winter before, I think, that he was logging.

Q. And you don't know the man's name he was logging for?

A. No, sir, I have forgotten his name. I was not acquainted with him.

Q. Was he logging for this man? A. Yes, sir.

(Testimony of Mrs. Eliza A. Reeve.)

Q. What do you mean by logging?

A. Well, hauling logs, that is the only way I can explain it.

Q. Hauling logs from the place where the trees were cut down to the river?

A. Down to the river, yes, sir.

Q. Now, can you fix this winter at all. Was it the winter before you filed, three years ago?

A. Yes, sir. It was the winter before.

Q. And that winter, the winter before you filed, your husband was working for Mr. Kilburn?

A. Yes, sir.

Q. Do you know who Mr. Kilburn was working for?

A. No, sir, I do not. I did not inquire about any of my husband's business. I don't think it is my business.

Q. But I did not know but what you happened to know. A. No, I don't know.

Q. Did you say that he was working for Mr. Cobban?

A. No, sir, I don't remember anything about it.

Q. Was Mr. Cobban up there while you were in the woods?

A. I don't know. He might have been, but I did not know him.

Q. When did you first make the acquaintance of Mr. Cobban?

A. I don't know. I don't know as I would really know him if I should meet him on the streets. I had

(Testimony of Mrs. Eliza A. Reeve.)

seen him two or three times. I don't know how long it is since I first saw him. About a year, I guess.

Q. Do you remember where it was that you saw him?

A. No, I do not.

Q. Did you have any business with him?

A. No, sir.

Q. You are sure of that?

A. Yes, sir. I never had any business with him.

Q. You never had any business with Mr. Cobban?

A. No, sir.

Q. Well, you sold your land to him, did you not?

A. No, I did not.

Q. You did not? A. No, sir.

Q. Who did you sell your land to then?

A. I left that to my husband to do.

Q. Well, you know that he sold it to him, did you not?

A. I didn't know that he sold it to him, no, sir.

Q. Well, do you remember of your signing the deed?

A. I remember something about it. I remember signing a deed some place.

Q. Couldn't you give the place of signing it?

A. No, sir. I don't think I could.

Q. And you don't know who you were selling it to?

A. No, sir, I do not.

Q. Do you know how much you got for the land?

A. No, sir, I don't know that.

Q. Did you receive anything at all yourself?

A. Yes, sir, I did.

(Testimony of Mrs. Eliza A. Reeve.)

Q. How much did you receive, Mrs. Reeve?

A. I cannot tell you exactly how much, but I told the old man—

Q. What is that?

A. I told my husband, to give me enough to buy a cow and he could use the rest himself. I knew he would know what to do with it, and how to use it, and I did not care what he would do with it. I wanted a cow.

Q. Well, did you get your cow?

A. Yes, sir. And some other things I needed.

Q. How much did that cow cost you?

A. I think it cost something like $40.00.

By Mr. MAYNARD.—I am a rancher myself, and I am somewhat interested in that.

Q. Well, what else did you get beside the cow?

A. Got some underwear.

Q. Anything else? A. I don't remember.

Q. That is all that you can remember that you got out of the deal? A. Yes, sir.

Q. That is, a cow, and some underclothes?

A. Yes, sir.

Q. Did not you have a curiosity to find out from your husband, how much he got for your land?

A. No, I am not one of those kind that I cared to make much inquiry. I just let him go on and do the business himself, and think it is for our own benefit.

Q. And when he tells you to sign your name, why, you sign it?

A. Yes, I sign my name, but I read the paper—

(Testimony of Mrs. Eliza A. Reeve.)

Q. Oh—you did read the paper?

A. Yes, I think I did.

Q. Then, if you read the paper, you must have found out who you sold the land to?

A. I don't remember now.

Q. Then, you did not receive any money at all? Of any kind, from the beginning to the end of this land transaction?

By Mr. WALSH.—We object to that for the reason that it is leading.

Q. From anybody, Mrs. Reeve, until you got money enough to get your cow?

A. No, sir, not that I remember of.

Q. Did you pay out any money, Mrs. Reeve?

By Mr. WALSH.—We object to that because it is leading.

A. I don't think so. I don't remember.

Q. Can you remember of receiving any papers at all, Mrs. Reeve, outside of that one that you signed?

A. I don't know. I don't remember of any.

Q. Other than, of course, your statement in your testimony? A. I don't remember of any, no, sir.

Q. Did you have anything to do with the giving of the names of your witnesses, or anything of that kind?

By Mr. WALSH.—We object to that as being leading.

A. I don't remember anything of the kind.

Q. Do you remember who your witnesses were?

A. No, I don't remember as I do. I don't think I

(Testimony of Mrs. Eliza A. Reeve.)

could—I don't believe I could remember them. I don't remember whether Albert was one of them or not.

Q. Albert who? Who do you mean by Albert?

A. Albert Ehle; I don't remember whether he was one of them or not. I don't remember about that.

Q. So you neither received any money, or paid out any money, Mrs. Reeve, that you can remember of?

By Mr. WALSH.—We object to that as being leading.

A. No, sir, I don't remember.

Q. Do you remember how long it was after you signed your paper—which was the day before you got the money I—do you remember how long it was after you signed the deed, before you got money enough to get a cow?

A. Yes, sir. It must have been a couple of months.

Q. A couple of months before you got that?

A. Yes, sir, I think so.

Q. Do you remember what the occasion of the delay was? A. No, I do not.

Q. Did you see any money paid to your husband?

A. No, sir, I did not.

Q. Do you know who he sold his land to?

A. No, sir. I don't know that.

Q. And you had no acquaintance with Mr. Cobban at that time at all?

A. No, sir, I don't know as I had ever seen him.

Q. Did you have any money of your own at that time?

A. No, sir.

Q. Do you remember anything about the circum-

(Testimony of Mrs. Eliza A. Reeve.)

stances of your being up in the mountains when you located?

A. No, my daughter, and my husband and I all went up there. I started with them, but I was feeling pretty bad and they would not let me go all the way. So I came back and stayed with the children, and the rest of them went.

Q. Where were you stopping at the time?

A. At the camp. We were camping in an old cabin.

Q. Camping in an old cabin? A. Yes, sir.

Q. You started out with them. How far had you gone before you went back?

A. I could not tell how far it was. My daughters told me I had better go back, because it was too much of a trip for me.

Q. And then you went back with the children, did you?

A. Yes, sir.

Q. How long were the rest of the party gone?

A. They were gone until pretty near night.

Q. Then do you remember when you went back again to the mountains—I mean from the city? The next day?

A. No, sir, I did not go back too—I know we did not go back home until Sunday.

Q. You did not go home until Sunday?

A. No, sir.

Q. Well, you did not go up to the mountains till then?

A. No, sir. Not very far. That is on the corner of one piece. I did not go over it all.

Q. Did you know—did you know what piece it was?

(Testimony of Mrs. Eliza A. Reeve.)

A. Only the piece they said was mine, that I could take up.

Q. Who said that, Mrs. Reeve?

A. I think my husband, and my two sons in law. They said it was no use of me going there, because I could not stand it.

Q. You say when you got to the corner, they told you that was the piece you were to take up?

A. Yes, sir.

Q. And then you turned around and went back?

A. Yes, sir, I had to go back.

Q. Did you ever go there again? A. No, sir.

Q. How long did you stay there at that corner?

A. Was not there very long.

Q. Well, can you state it in minutes?

A. No, I cannot.

Q. How many—give us your best recollection about it, Mrs. Reeve?

A. I don't know as I can, if I don't remember.

Q. That is, you went to this corner, and then turned back and did not go back again after that?

By Mr. WALSH.—We object to that as being leading.

A. No, sir.

Q. Have you ever been back there since?

A. No, sir.

Q. For what purpose, Mrs. Reeve, did you go up there in the mountains?

A. All I know is, that I went up there to take up a timber and stone claim—to take up a timber claim.

(Testimony of Mrs. Eliza A. Reeve.)

Q. What have you to say as to what the character of the country was? A. It was pretty rough.

Q. Can you describe it any better than that?

A. That is about all I see. I cannot say. It was rough and hilly and up in the mountains.

Q. Well, you were going to take up this stone and timber claim, and what were you going to do with it after you got it, Mrs. Reeves?

A. I left it in my husband's care, to take care of.

Q. You left it in your husband's care, to take care of?

A. Yes, sir.

Q. What do you mean by that, "to take care of"?

A. I thought he understood it more than I did, and I left it to him to take care of.

Q. Do you remember anything about the circumstances of your going to the land office the first time?

A. I don't remember, only my daughter and I went with my husband, and with her husband. That is all I remember about it.

Q. You remember that, do you? A. Yes, sir.

Q. You say you remember signing your name?

A. Yes, sir.

Q. Did you go where you were when you signed the deed?

A. I think I was in that office down by the bridge. I think I was, but at the time—I think that was where I was.

Q. I am a stranger, so I don't know what you mean by "that office by the bridge."

(Testimony of Mrs. Eliza A. Reeve.)

A. Well, I think that is what they call the land office. I am not positive, but I think that is what it was.

Q. You don't know about that? A. No, sir.

Q. Do you know Mr. Catlin?

A. I don't really know him. But I have seen him once or twice.

Q. Did you see him at that time?

A. I could not say whether I saw him or not. I could not say whether I know him or not.

Q. Don't you know that that is his handwriting? (Counsel shows witness original papers in the matter of her entry under the Stone and Timber Act.)

A. I cannot tell. I don't know his handwriting.

Q. Well, have you any recollection whatever connected with any of the facts or circumstances at the time you made this statement, except the fact that you signed your name?

A. I remember there were two or three men there, but I don't know who they were. I could not swear who they were because I did not know them.

Q. You know Albert Jemison, don't you?

A. I don't know him. I have seen him. That is, my daughter said it was him. I might pass him and repass him but I would not know him if I should meet him.

Q. You don't know whether he was up in the mountains with you or not?

A. I don't think there was any man up there with us. I don't think there was any men folks there but the three. My husband and my two sons in law.

(Testimony of Mrs. Eliza A. Reeve.)

Q. Whereabouts do you refer to?

A. Up in the mountains as you say.

Q. Mr. Jemison was not a witness for you, was he?

A. I don't know. I don't remember whether he was or not.

Q. You don't remember anything about it, do you?

A. No, sir, I don't remember anything about it.

Q. As a matter of fact, I am referring to the original records, and it seems by that he was a witness for you.

A. I don't remember anything about it. It may be that he was, but I don't remember who was there. I don't know if he was or not. I have not seen him since I have been here.

Q. You don't know whether he was a witness or not?

A. I don't know; I don't know if I would know him or not.

Q. Have you seen him here? A. Yes, sir.

Q. When did you see him here?

A. Excuse me. I don't mean Jemison. I mean Mr. Griswold. No, I don't know Mr. Jemison either.

Q. Had you met Mr. Griswold at all before this?

A. No, I had never met him to take to until I—at all; I don't know him.

Q. From the certified copy of the deed on file here—right here on the table; it appears that you sold to Mr. Cobban, and now, as I understand it, you don't know that you sold to him?

A. I don't know anything about it.

Q. You never had any talk with him?

(Testimony of Mrs. Eliza A. Reeve.)

A. No, sir, I never had any talk with him.

Q. In regard to this matter, I mean? No, sir.

Q. Did you have any talk with Mr. Catlin in regard to the matter or Mr. Pound? A. No, sir.

Q. You don't know how much you got for your land?

A. No, sir.

Q. So that if any money was borrowed from Mr. Cobban or anybody else, it was done without your knowledge or consent, Mrs. Reeve?

By Mr. WALSH.—We object to that as being leading.

A. Why, I don't know as it was, because I had nothing to do with it. I don't know whether I got it or not. I left it to my husband to attend to himself.

Q. Except the general consent that you gave thirty years ago, everything that he did in a business way was right; is that it?

By Mr. WALSH.—We object to that as being leading.

A. I don't know as I understand you.

Q. I say, about thirty years ago, when you married him, you let him do the business, and whatever he did was all right; is that it?

By Mr. WALSH.—We object to that as being leading.

A. Yes, sir.

Q. And you asked no questions? A. No. sir.

Q. So you don't know what arrangements he had made for you, Mrs. Reeve? A. No, sir.

Q. Nor did you ask, did you? A. No, sir.

Q. Nor were you ever told, were you?

A. No, I don't remember that I was.

(Testimony of Mrs. Eliza A. Reeve.)

Q. So I understand that you never in your life asked him how much he got for you out of that land?

A. I don't think I ever asked him.

Q. And you were never told? A. No, sir.

Q. You were never told by him or anybody else?

A. No, sir.

Q. So you don't know now, do you?

A. I don't know anything about how much he got.

Q. And all that you do know is that you got a cow and some underclothes?

By Mr. WALSH.—We object to that question as leading.

A. Yes, sir.

Cross-examination.

(By Mr. BICKFORD.)

Q. It appears from all that I can gather, Mrs. Reeve, that you and Mr. Reeve, got along very well in your business affairs? A. Yes, sir.

Q. When you went to the land office, and made your first statement, Mrs. Reeve, you signed this statement and you swore to it, the statement which you have identified for the counsel for the other side, in which you said, among other things, that you applied to enter a piece of land described as the southwest quarter of section 32, township 15 north, range 16 west, and in that statement you said the land was chiefly valuable for its timber?

A. Yes, sir.

Q. And you also said, that it, referring to the land, contains no mining or other improvements?

(Testimony of Mrs. Eliza A. Reeve.)

A. Yes, sir.

Q. And you further said, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper or coal; that I have made no other application under said acts. That I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not directly or indirectly, made any agreement or contract, or in any way or manner, with any person or persons, whomsoever, by which the title I may acquire from the Government of the United States, may inure in whole or in part for the benefit of any person except yourself? A. Yes, sir.

Q. That statement was true, was it not, Mrs. Reeve?

A. Yes, sir.

Q. You looked at the land sufficiently so as to say that it was not agricultural land, didn't you?

A. Yes, sir.

Q. And you knew that it was not valuable for agricultural purposes, did you not? A. Yes, sir.

Q. You could see from the examination of it that you made that the land was more valuable, or rather, valuable chiefly for the timber that was on it?

A. Yes, sir.

Q. And it was fair to presume that you did not find any copper, gold or silver, or anything of that kind sticking out of the ground? A. No, sir.

Q. Now, after having gone upon this land, and examined it, you went to the land office and made your filing upon it? A. Yes, sir.

(Testimony of Mrs. Eliza A. Reeve.)

Q. At the time when you went to the land office, it was your intention to take up that land, and make final proof upon it, was it? A. Yes, sir.

Q. As I understand it, you left the question of the bargain of the land, for your husband to arrange?

A. Yes, sir.

Q. Then, when you went to the land office the man asked you certain questions, did he not?

A. Yes, sir.

Q. And you gave answers to those questions, did you not? A. Yes, sir.

Q. And after they were written down, you signed your name to the questions, and swore to them?

A. Yes, sir.

Q. And among the questions that were asked you at that time was this: "Was the land—what was the land chiefly valuable for, and you said chiefly valuable for its timber." That was true, was it not?

A. Yes, sir.

Q. You also stated, that the land has no value without the timber on it? A. Yes, sir.

Q. And you think that was true, do you?

A. Yes, sir.

Q. Why would you say that "that the land had no value except for the timber"?

A. Because I think it too mountainous.

Q. The land was too mountainous, and too hilly, and no water could be gotten upon it for irrigation purposes, could it? A. No, sir, it could not.

(Testimony of Mrs. Eliza A. Reeve.)

Q. Then it was not of any value, except for the timber that was standing upon it? A. No, sir.

Q. And possibly that its suitability for a stone quarry was not very good, was it? A. No, sir.

Q. You were also asked this question, Mrs. Reeve, when you made your final proof: "Have you sold or transferred your claim to this land since making your sworn statement, or have you directly or indirectly, made any agreement or contract, or in any way, or manner, with any person, whomsoever, by which the title which you may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person, except yourself," and to which you answered, "No, sir." A. Yes, sir.

Q. Was that answer true to that question, Mrs. Reeve? A. Yes, sir.

Q. You were also asked this question at that time, Mrs. Reeve: "Do you make this entry in good faith for the appropriation of the land exclusively to your own use and not for the use and benefit of any other person?" to which you answered, "I do; I am a married woman, and I purchase this land with my own money, in which my husband has no interest or claim."

A. Yes, sir. I said that.

Q. Was that answer true? A. Yes, sir.

Q. You were also asked this question at that time: "Has any other person than yourself, or has any firm, corporation, or association, any interest in the entry you are now making, or in the land, or in the timber

(Testimony of Mrs. Eliza A. Reeve.)

thereon?" Your answer was, "No, sir." Was that true?

A. Yes, sir.

Q. Then, at the time when you made your final proof, there was nobody except yourself that had any interest whatever in the land? A. No, sir.

Q. You were perfectly willing, however, for your husband to deal with this land, if he saw fit, and as he saw fit? A. Yes, sir.

Q. You are living at the present time, Mrs. Reeve, where? A. In Idaho.

Q. What is the name of the place?

A. Long Valley.

Q. How long ago did you go there?

A. Went there—think it was in September or October.

Q. Some time last year?

A. Yes, sir. Last fall sometime.

Q. And you have come all the way from Idaho, up here, to testify, have you? A. Yes, sir.

Q. Are you one of those against whom an indictment is found by the grand jury? A. Yes, sir, I am.

Redirect Examination.

Q. Now, do you understand these questions that Judge Bickford has just put you? A. Yes, sir.

Q. In which—what—

A. Yes, sir, I think I do.

Q. He read to you from the questions and answers that was put to you at the land office?

(Testimony of Mrs. Eliza A. Reeve.)

A. Yes, sir.

Q. Now, then, you say that your husband had entire charge of the money matters connected with it. That is, connected with the selling of the land?

A. Yes, sir, I left it in his care. I did not understand a business like that, and I have not looked into it at all, and I don't know anything about it.

Q. You don't know anything about where he got the money, or how he got the money to pay for the land?

A. No, sir.

Q. Did you know that he was to borrow the money?

A. I don't know. He had two or three chances, and he said that he was going to do it. He said he was going to do business with them if he could.

Q. From whom he borrowed the money to pay for the land or how much money he borrowed, you don't know? A. No, sir.

Q. He never told you?

A. I don't remember that he did. He might have told me, but I—

Q. And you had no money of your own?

A. No, sir.

Q. What is that?

A. No—not anything to speak of.

Q. Well, now, if that is all true in connection with your other testimony, Mrs. Reeve, how can you explain this question and this answer that you gave: "Have you sold or transferred"—not that question, but question 14, I mean, which reads as follows: "Do you make

(Testimony of Mrs. Eliza A. Reeve.)

this entry in good faith, for the appropriation of the land, exclusively to your own use and benefit, and not for the use or benefit of any other person"? And then your answer to which you signed your name—your answer to that question is, "I do, I am a married woman, and purchase this land with my own money, in which my husband has no interest or claim."

A. I considered that the money was borrowed, and that when it was borrowed it was my own. Just the same as anything else.

Q. Where is your answer—here it is. I read from the testimony of yourself upon final proof, in answer to question 14: "I am a married woman, and purchase this land with my own money, in which my husband has no interest or claim."

By Mr. WALSH.—He has not asked you any question yet, Mrs. Reeve.

Q. Now, I ask you to explain that answer.

By Mr. WALSH.—We object to this because the witness has already answered the very question which she is asked to explain.

Q. Can you explain that answer, Mrs. Reeve?

By Mr. BICKFORD.—I insist that she has already done so.

A. As I said, when the money was borrowed, I considered it was ours.

By Mr. MAYNARD.—That is all.

ELIZA A. REEVE.

(Testimony of John B. Reeve.)

Subscribed and sworn to before me this 25th day of March, 1902.

HENRY N. BLAKE,
Examiner in Chancery.

JOHN B. REEVE, a witness called by the complainant, being first duly sworn by the Examiner, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Mr. Reeve, how long have you known Mr. Cobban?

A. Really, I could not answer that question. I don't know the year that he was born in. I have known him off and on ever since he was born.

Q. Did you know his father and mother?

A. I knew his father.

Q. So that you have known him all his life?

A. Well, not all his life. There was about twenty years of his life that lapsed during his life that I had not seen him, and did not know anything of him until I saw him in Montana. After he left Wisconsin I never heard of him again until I saw him in Montana. I knew he was in Montana, but I did not know whereabouts he was in Montana. But I knew he was in Montana.

Q. When did you live in Wisconsin?

A. I left Wisconsin in 1890, on the 1st day of May.

Q. Did you come to Montana direct?

A. Yes, I came directly to Helena.

Q. Came directly to Helena? A. Yes, sir.

(Testimony of John B. Reeve.)

Q. With your wife and daughters?

A. Yes, sir.

Q. Who are with you here in Helena now?

A. Yes, sir.

Q. As witnesses, and you all come from Idaho?

A. Yes, sir.

Q. Have you any other daughters and sons?

A. I was never aware that I had any more.

Q. These two daughters are the only children that you have?

A. I never was aware of any more.

Q. That is the way of saying, yes, or no?

A. Well, they are all that I know of. They are all that I have as far as I know. I never had any idea that I had any more.

Q. Do you mean by that that you have any that you don't know anything about? A. Oh, I guess not.

Q. How old a man are you?

A. I am 59 years old the 19th day of next May.

Q. What has been your business since you have been here in Montana?

A. Well, sir, I have been in various kinds of business. I have followed a great many kinds of avocations. Sometimes I have been logging, other times I have been grading on the railroads, and on other times I have been grading county roads, and taking contracts of various descriptions.

Q. What did you do here in Helena?

A. In Helena?

(Testimony of John B. Reeve.)

Q. Yes, in Helena?

A. I believe, the biggest part of my time, here in Helena, was working for the Singer Sewing-Machine Company.

Q. What was you doing for that company?

A. Canvassing the country for them, selling Singer Sewing-Machines.

Q. How long were you engaged in that work?

A. About 18 months.

Q. Then what did you do next?

A. The next thing I did was to lease a stock ranch here in Deer Lodge County.

Q. What is that?

A. The next thing I did was to lease a stock ranch, with my son in law, that is here.

Q. Which one, Mr. Ehle? A. Yes, sir.

Q. How long did you live there?

A. I lived there one year.

Q. How long did you rent it for?

A. I rented it for five years.

Q. You rented it for five years?

A. I rented it for three years rather, with a privilege of five.

Q. And then threw it up at the end of one year?

A. I did not throw it up—I sold out.

Q. Then what did you do next?

A. The next place, I moved from there up in the Bitterroot valley, in Hamilton, Montana, and engaged in

(Testimony of John B. Reeve.)

the logging business in that winter—the following winter.

Q. And engaged in the logging business that one winter in Hamilton?

By Mr. WALSH.—We object to that as being a repetition of the testimony of the witness, by the counsel.

A. Yes, sir.

Q. What do you mean by that?

A. I took a contract of logging for the Bitterroot Development Company.

Q. Well, what do you mean by that?

A. Just what I said. I took a contract for logging for the Bitterroot Development Company, and carried on that business during that winter.

Q. Carried on what?

A. I said, carried on that business, logging: in other words, cutting and hauling timber to the river, to the river bank, if that is what you wish to know.

Q. That is what I wish to know.

A. You put two questions, and asked me to explain something, and I supposed that every man knew what logging meant.

Q. You must not presume too much.

A. Well, I supposed every man knew that. I have got little grandchildren that know what that is. They have heard enough about that to know what it is.

Q. How big a place did you get? A. What?

Q. How big a place did you locate on?

A. I could not say exactly. We located probably

(Testimony of John B. Reeve.)

40 or 80 acres, cut the timber and hauled it off of 40 or 80 acres.

Q. Whose land was it?

A. It was land belonging to a man by the name of Thomas Padden.

Q. Thomas Patten?

A. Thomas Padden.

Q. Who bought the trees?

A. I took a contract of putting that timber in by the thousand. The Bitterroot Development Company bought the timber and gave me a contract for putting it in by the thousand, at so much per thousand.

Q. Padden owned the land? And you cut the timber and he hired you to put it on the river bank?

A. Yes, sir; gave me a contract.

Q. Did—all you had to do was simply to cut the trees down and haul the logs to the bank?

A. Yes, sir. It was quite a chore, too.

Q. And that is what you did, isn't it, one winter?

A. Yes, sir, that is what I did one winter.

Q. Well, what did you do next?

A. I forgot what I did do. I don't think that I was in the woods in the next winter—I was not in the woods the next winter. I was driving horses, and taking little jobs along, and teaming—anything I could get to do.

Q. Where were you living?

A. Living in Hamilton.

Q. Did you have any real or personal property at that time?

(Testimony of John B. Reeve.)

A. I had personal property, but no real property.

Q. What personal property, or real estate did you have?

A. Oh, I had quite a number of horses, wagons, and harness.

Q. How many horses did you have?

A. Well, sir, I could not tell you just how many I owned, as high as 15 or 20 head at one time. I could not say just exactly how many I did have.

Q. You were living right in the village, were you not? A. Yes, sir.

Q. Were you living in a rented house?

A. No, sir.

Q. Did you just squat in it, or what?

A. No, sir; I leased a piece of ground, and built a house of my own; a shack, however, sufficient for me to live in.

Q. A shack?

A. Yes, a little four-room house—such as we term a "shack" in this country.

Q. And that is where you and your wife lived?

A. Yes, sir.

Q. Did you have anything else on this leased piece of ground up there?

A. Just this shack; nothing that I know of besides that outside of a little barn.

Q. Except a little barn? A. Yes, sir.

Q. Did you build the barn yourself?

A. Yes, sir, I did.

(Testimony of John B. Reeve.)

Q. How large was that little barn?

A. Well, large enough to keep four or six horses in.

Q. Anything else?

A. Nothing that I remember of.

Q. Is the barn there now?

A. I don't know whether it is or not; I could not say. I have not been there for a long time.

Q. What is that?

A. I don't know; I have not been there for a long time.

Q. Do you know where this shack and this barn were?

A. Why, I could not give you a description of the lot or the block.

Q. How long did you live there?

A. I lived there a year and a half in that house.

Q. Right in the village of Hamilton?

A. Yes, sir.

Q. Did the postmaster know where you lived at that time?

A. I don't know. I never invited him to my house.

Q. What was his name then, the postmaster?

A. I think at that time it was Mr. Winn Roberts.

Q. How many horses did you have in that place that winter?

A. Sometimes I had four and sometimes I had six. I am never without four horses.

Q. You say that the barn at that time could accommodate six? A. Yes, sir.

(Testimony of John B. Reeve.)

Q. When those horses were in there, would it be big enough for anything else?

A. Oh, I don't think it would. It might possibly hold my dog.

Q. Where did you keep your wagons and sleighs?

A. Outdoors.

Q. Right outdoors?

A. Yes, sir; I am like the Montana people. I never have any sheds for wagons and sleighs; we are careless in this country.

Q. You come from Missouri, do you?

A. No, sir, I do not, but I have got a kind of warm spot in my heart for Missouri, and really I thought that you were a Missouri man.

Q. You thought I had some of the symptoms of it?

A. I had an idea you were from Missouri.

Q. You thought I was a Missourian?

A. Yes, sir, I thought you were from Missouri.

Q. Well, where were your other horses?

A. Sometimes I turned a lot of horses out on the range and let them run there.

Q. That is when you were living at Hamilton?

A. I think that when I lived at Hamilton I kept my horses all out.

Q. You kept them all up, then? A. Yes, sir.

Q. And that would not exceed six horses?

A. No, that would not exceed six horses at that time; but, as I said before, sometimes I had fifteen or 20 head.

(Testimony of John B. Reeve.)

Q. Sometime in your life you had 15 or 20 head?

A. Since I have been in Montana. But not up in the Bitterroot Valley

Q. Well, have you got that number of horses to-day?

A. I have got that number of horses to-day, if I knew where they were.

Q. Do you know where they are?

A. I have 12 or 13 head of horses running on the range in Deer Lodge county to-day that belong to me.

Q. When did you see them last?

A. I have not seen them for five years—it is six years since I saw them, but I have heard from them frequently. I know that they are there. I knew where they were a year ago.

Q. Yes, where is this place that you speak of?

A. Well, it is near the range—the range is near the ranch I had leased up on the Little Blackfoot river.

Q. You have let them run wild for six years?

A. I have had them running there for the last nine years.

Q. And you have never seen them since that time?

A. I never thought they were worth seeing.

Q. You never thought they were worth seeing?

A. No, sir.

Q. Why not?

A. Simply because, you see, they are not worth anything. You can buy them for five or six dollars a head, and it was not worth while for me to go and hunt them up.

(Testimony of John B. Reeve.)

Q. If that is so, the more horses a man has the poorer he would be, if he had enough of them?

A. Yes, that is why I have been horse-poor, lots of times, I acknowledge that.

Q. Well, now, do you remember of your taking up these claims, in connection with the other members of your family under the Stone and Timber Act? Do you remember of taking up six claims?

A. Remember of taking up six claims?

Q. Yes, sir.

A. No, sir, I do not. I remember of taking up one claim. I never took up more than one claim.

Q. You remember that, do you? A. Yes, sir.

Q. I ask you if you remember of taking up these six claims in connections with the other members of your family?

A. I remember of other members of my family taking up five claims, and I took up one.

Q. You remember that, you say?

A. Yes, sir, I remember that distinctly.

Q. Do you remember where you were living just prior to the time of your taking the proceedings to take up this land?

A. Yes, sir, I do. But I am very sorry that the rest of my family don't remember.

Q. Well, just go on and tell us—give us all there is to it.

A. I lived in Missoula when I went up to look at my claim that I anticipated taking up.

(Testimony of John B. Reeve.)

Q. What were you doing there?

A. Doing there?

Q. Yes, sir. What were you doing there?

A. I had just got through with a county contract with the county of Missoula, and received my pay for work that I had done on the road. I had an $850.00 job from the county and I had just finished it a few days before I went up on the Blackfoot to look at the claim.

Q. You had finished it, and got your money for it?

A. Yes, sir.

Q. How long had you been engaged in that work?

A. About 41 days.

Q. What was the work?

A. It was grading a county road.

Q. Whereabouts was the road?

A. The road commenced at the ——— house on the Bitterroot river, and went on up by Mr. Davis' ranch, up the Bitterroot valley, a distance of three miles.

Q. The county wanted to improve one of its roads?

A. Yes, to widen out the road to about 15 feet from about eight or ten feet. That was the nature of the work, constructing the county road.

Q. For three miles?

A. For three miles, yes, sir.

Q. Did you enter into a contract with the county?

A. Yes, sir, I did.

Q. You entered into a contract to do the work you have spoken of? A. Yes, sir.

Q. For how much money?

(Testimony of John B. Reeve.)

A. For $875.00, I think it was. I said $850.00, but it was $875.00; that was the actual price.

Q. You agreed to do the work for that gross sum?

A. Yes, sir.

Q. And you was paid that amount?

A. Yes, sir, I was paid that amount.

Q. And how many days were you engaged in the work?

A. I was 41 days. It took me 41 days to build that road—to finish the job.

Q. What did you have to do?

A. I had to grade the road and make it 15 feet wide.

Q. How did you do it?

A. With tools, scrapers and plows, picks and shovels.

Q. You had done that work before, had you not?

A. Yes, sir; a great deal of it.

Q. Did you have to have some teams?

A. Yes, sir, I did.

Q. How many?

A. I had three teams on that work.

Q. Did you have to hire any men?

A. I hired some men, yes, sir.

Q. How many men did you have to hire?

A. I hired three men—yes, sir, I had three men employed.

Q. Do you know who they were? A. Yes, sir.

Q. Who were they?

A. One of these men was Frank Dennis; another man's name was Robert Starkie.

(Testimony of John B. Reeve.)

Q. My friend, your son in law?

A. Yes, sir. I hired four or five different men, but some of them I did not keep more than a day or two. I also hired a man by the name of Herrick, and kept him three or four days.

By Mr. WALSH.—We object to all of this testimony upon the ground that it is irrelevant and immaterial, and does not prove, or tend to prove, any material issue in this case, and we therefore move to strike it out.

Q. Well, how many men did you keep at work there?

A. Oh, I had three men besides myself.

Q. All of the time? A. Yes, sir.

Q. And several men besides that for some few days?

A. No, sir. When I discharged a man, I had to get another man in his place, but I had three men all the time. If I hired a man and he did not suit me, I would discharge him and get another man in his place.

Q. Well, did you have three men there continually from the first start? A. Yes, sir.

Q. So you had three men all the time, and other men at different dates?

A. Yes, sir. When I discharged a man, I had to fill his place.

Q. I think you said you had four or five men?

A. I had three men all the time, and four or five at different times.

Q. I understood you to say that you had three men all the time and two or three men hired for different dates.

(Testimony of John B. Reeve.)

A. Well, I had three men all the time, but when I let a man go, I had to hire another one to take his place; but during all of the time I had three men employed on that work.

Q. How many teams did you have?

A. I had three teams.

Q. All of the time?

A. All of the time, yes, sir.

Q. Well, how much did you make out of that job?

By Mr. BICKFORD.—We object to that on the ground that it is immaterial and irrelevant, and does not tend to prove any of the issues of this case.

A. How much did I make out of it? How much did it net me?

Q. Yes, sir. How much did it pay you net, after paying your men, and paying for the teams, and your material and so on?

A. I think I figured up at one time what I cleared on that job. I think it amounted to $187.50, what I cleared over and above all expenses.

Q. What I mean by over and above all expenses—what did you clear over and above your expenses, including men and teams and so forth. One hundred and eighty-seven fifty?

A. Yes, sir. What I mean over and above expenses, was feeding my teams, feeding my family, and the expenses of running my business, and paying my help. The reason I remember that so distinctly was because

(Testimony of John B. Reeve.)

everybody said I was going to lose everything I had in the world.

Q. Well, what did you have in the world at the time?

By Mr. WALSH.—We object to that being irrelevant and immaterial.

A. Had the horses, harness and wagons.

Q. You had the horses, harness and wagons?

A. Yes, sir.

Q. If you had lost your horses, you could have duplicated them for twenty or twenty-five dollars apiece, could you not?

A. Why, most assuredly, some of them.

Q. Now, will you please tell me, Mr. Reeve, when you first saw Mr. Cobban in connection with the taking up of these six claims? A. When I first saw him?

Q. Yes, sir. When you first saw him?

A. In connection with the taking up of these six claims?

Q. Yes, sir.

A. Well, I could not give you the meeting date exactly because I disremember it.

Q. Well, how long was it before you went up into the mountains?

A. It was not before I went up into the mountains at all. It was not before at all that I saw Mr. Cobban.

Q. It was not?

A. No, not in regard to those claims, that is what you mean, isn't it?

(Testimony of John B. Reeve.)

Q. Yes, sir.

A. No, sir, I went up into the mountains before I saw Mr. Cobban about those claims.

Q. When did you become intimately associated with Mr. Cobban?

A. Oh, I could not say that exactly. Some five or six years ago, I believe, that I went to Mr. Cobban. In fact, I know I did at the time that I took this contract from the county to get him to sign a bond for me, and I believe I went to Mr. Cobban to get him to sign a bond for me.

Q. And as an old Wisconsin acquaintance, he gladly did it, did he not?

A. He would have done it if it had not been for an agreement he had made with his partner.

Q. He had made an agreement with Mr. Dinsmore that he would not sign any bonds, had he?

A. Yes, sir, that he would not sign any bonds.

Q. Not even for his old friend, that he had known so long?

A. I don't suppose that he proposed to violate his confidence with Mr. Dinsmore under any circumstances.

Q. Oh, it would have violated his confidence to have done so, would it?

A. Most assuredly it would. I had tested his friendship on several occasions.

Q. When was this, before or after taking up these six claims?

(Testimony of John B. Reeve.)

A. Some of them before, and some since. Some of them less than a year ago.

Q. How was it less than a year ago?

A. Oh, he has befriended me in a good many ways.

Q. Well, just how has he befriended you within less than a year?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial and relates to a time subsequent to the happening of the transaction alleged in the bill of complaint.

A. Well, I cannot remember the date, or the amount that I am indebted to Mr. Cobban, but I am still owing him money, and I owe it to him now.

Q. How much do you owe Mr. Cobban now?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial and relates to a time subsequent to the happening of the transaction alleged in the bill of complaint.

A. I could not exactly say without my book. He has my note.

Q. And you owe him now, and he has got your note, and still you don't know anything about what it is?

A. Oh, it is between $125 and $200. Between $125 and $200 that I am in debt to Mr. Cobban.

Q. And it is represented in this note?

A. Oh, it might be represented in two different notes. I think it is.

Q. You think it is represented in two different notes?

(Testimony of John B. Reeve.)

A. Yes, sir, I think it is.

Q. And you have outstanding notes, and still you do not know what they are?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and relates to a time subsequent to the happening of the transaction alleged in the bill of complaint.

A. I know pretty near what they are, but I have not been able to square it up, and have not taken the trouble to figure them up.

Q. Well, just give us, will you, please, your best recollection of what those two notes are?

A. Well, I will tell you. I borrowed at one time some money from Mr. Cobban, $75.00, I think it was, but I have forgotten what it was. And then I paid him on them something in the neighborhood of $25 or $30, and then I borrowed some money again of Mr. Cobban, $126 of which I have never paid him one cent.

Q. And that is since this land transaction?

A. That is less than a year ago. It is less than a year ago. This last note and the other note. Well, the other note was a year ago last September, I think.

Q. Who indorsed your note?

A. I did not have to have anybody to indorse my note to Mr. Cobban.

Q. What security did you give him?

A. I did not give him any security whatever. At the time I gave the first note—that is, when I gave him the first note, but I did give him security on the last note.

(Testimony of John B. Reeve.)

Q. What did you give him security on?

A. On my horses, harness and wagons.

Q. And gave him a chattel mortgage?

A. Yes, sir. That is on record, I suppose, in Idaho City, Idaho.

Q. And this second note was secured by a chattel mortgage so recorded as you say, and is for how much?

A. One hundred and twenty-six dollars.

Q. That is the money you needed to go over to Idaho, I suppose?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial, and a mere supposition of counsel, and not any testimony of the witness.

A. The money that I borrowed then I wanted to use then, and when I went to Idaho, I had to have some other money, and that I got with this mortgage.

Q. Oh, I see. For what purpose did you want that money?

By Mr. WALSH.—We object to that question on the ground that it is irrelevant and immaterial to the issues in this case.

A. Oh, general purposes.

Q. You wanted it for general purposes?

A. Yes, sir.

Q. You cannot state any particular purpose?

A. Yes, I wanted grub, particularly at that time, and I had to have it.

Q. Wanted grub for your family and yourself?

(Testimony of John B. Reeve.)

A. Certainly.

Q. And that first loan then, that you borrowed money from Mr. Cobban, was for grub, and it was less than a year ago from now?

A. The loan was a year ago about the first of last May.

Q. About the first of last May?

A. Yes, sir, last May. Yes, this coming May, it will be a year since I borrowed the loan of money from him. That is, the $126.

Q. And that was for grub?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial.

A. Part of it was for grub, yes, sir.

Q. Well, now, then, coming back to our land transaction, you say you had not seen Mr. Cobban with reference to it before you went up to make these entries?

A. Before I went up to examine the land, I had not spoken to Mr. Cobban a single word about the land.

Q. I want you to tell all in regard to it?

A. Regarding the land?

Q. Yes, when you had any conversation with him of any kind regarding the land?

A. Not before I went to look at the land.

Q. Who did you go up into the mountains to look at the claims with?

A. Well, if you will pardon me, I will tell you, just exactly how it came about.

Q. That is the way I would like to have you do it?

(Testimony of John B. Reeve.)

A. I will tell you exactly how it was. I had several times asked Mr. Griswold for the last five or six years if he could get me onto a homestead, and he had promised me several times that he would do it. He had failed to do it, and just before I went to look at this claim, I asked him if he could tell me where there was a homestead claim, but he said he could not exactly tell, at that time, but he said there was something else he could tell me about; that he could put me onto a timber and stone claim, if I wished to avail myself of one, and I went with him and he sent a man with me to look at it.

Q. Who was that man? Was it Albert Jemison?

A. Yes, he did not send him with me. He sent me to Albert Jemison.

Q. Well, go on now?

A. Albert Jemison and myself and Robert Starkie went and looked at some land which Mr. Jemison claimed was good property. We went over the land and looked at the timber and estimated the timber on my claim to ascertain how much there was of it, and also on Mr. Starkie's claim, and we went to the corners, and took the numbers down, and I went back to Missoula, and filed on my claim.

Q. You and Starkie?

A. Me and Starkie together, yes, sir.

Q. Where were you when you had this talk with Mr. Griswold?

A. Right—I believe it was right in front of the gen-

(Testimony of John B. Reeve.)

tleman's waiting-room, at the Florence Hotel, at Missoula.

Q. How many talks did you have with him?

A. With regard to it?

Q. Yes.

A. Nothing but what I wanted at that time.

Q. And he sent you to Albert Jemison?

A. Yes, sir.

Q. And where was Albert Jemison?

A. Albert Jemison—I believe that Albert Jemison was in town that day, and I believe he went up horseback.

Q. What is that?

A. I believe Albert Jemison was in town that day, and he went up horseback, and met me up the river.

Q. Met you up the river where?

A. Up at Nine Mile Prairie. No, I will take that back, we met him on the road going up there. I overtook Albert Jemison going up there. That was it exactly—I overtook him on the road.

Q. Now, let me understand us. How long was it after you had had this conversation with Mr. Griswold at the Florence Hotel in which he told you that he had some claims and that he would send you to Albert Jemison, that you started from Missoula, and overtook Albert Jemison?

A. We started the next morning.

Q. And this transaction was the night before?

A. I think it was in the afternoon.

(Testimony of John B. Reeve.)

Q. Was Starkie present?

A. Robert Starkie was not present.

Q. You went and told Robert Starkie about it, did you?

A. I went and told Robert Starkie about it.

Q. And you and Robert went the next morning?

A. We went the next morning, yes, sir.

Q. And overhauled Mr. Jemison?

A. Yes—I would not say just where it was, though. I would not say whether it was at Mr. Stairs' place on the road or not.

Q. Albert was there, was he?

A. Yes, sir, Albert was there.

Q. And did you tell him what Griswold had said to you? A. Yes, sir.

Q. And then what was done?

A. We went up to look at the timber.

Q. Albert and you and Starkie? A. Yes, sir.

Q. How far were these locations from the hotel where Albert took you?

A. Well, I could not say the exact distance. It must have been 18 or 20 miles.

Q. How did you go up there?

A. Went up with a team. We went up with a team unto what is called Belmont creek, and there we camped.

Q. You and Albert and Robert Starkie?

A. Albert Jemison went home to his father's place, or where his father lived, and the next morning he came

(Testimony of John B. Reeve.)

to where we camped. We camped that night on Belmont Creek.

Q. Then what did you do the next morning?

A. He came over to where we were, and went and showed us this timber that we spoke of.

Q. He showed you the timber that you are now speaking about? A. Yes, sir.

Q. Did he say that those locations were open?

A. Why, he claimed that they were vacant.

Q. He claimed that they were vacant?

A. Yes, sir, which I ascertained when I got in the land office, that they were.

Q. You don't know whether they were taken or not and did not know until you got to the land office, except what Albert told you?

A. I did not, no, sir.

Q. What did Albert do up there?

A. Albert Jemison run the lines and followed the lines from one corner to another. I walked about a hundred yards inside of the yards, on the lines, and counted the trees, and estimated the timber to see how much there was of it. Albert Jemison—we went over every 40 in that way.

Q. Over yours and Starkie's claim too?

A. Yes, sir, for my own and Starkie's claim too.